

MINUTES

BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS

RULES WORKSHOP

July 17, 2003

Hilton Garden Inn
12 Via De Luna Drive
Pensacola, Florida 32561

The meeting was called to order by Jeff Cooner Chair, at 8:00 a.m.

COMMITTEE MEMBERS PRESENT:

Jeff Cooner, Chair
Lou Lebron
Beverly Sutphin

OTHERS PRESENT:

Paul Martin, Board Counsel
Juanita Chastain, Executive Director
Christa Patterson, Government Analyst
Gail Oliver
Russell Daly
Harley Gilmore
Henry Echezabal
Steven Woods
Oscar Pittman
David Glaze
Lanier Matthews, II
John Clyatt
Michael Blanon
Omar Armenteros
Stephen Gordon
Marilyn Evers
W. Burch
Allen Nobles
Rob Working
Pam Nobles

Mr. Cooner advised the committee that each rule in Chapter 61G17 had been noticed for discussion. Mr. Cooner stated he would like to go through each rule with the committee.

DISCUSSION OF CHAPTER 472.02 F.S. – Savings Clause

The committee deferred discussion of Chapter 472.02, F.S. to the full board.

RULE DISCUSSION

Chapter 61G17-1 – Organization and Purpose

The committee reviewed 61G17-1, and did not have any comments or suggestions for change. Ms. Sutphin brought to the committee's attention that 61G17-1.013, referred to exam security and asked the committee if the rule would need to be modified to include exam security measures. Mr. Cooner stated that he did not see a need for change but would make note.

Mr. Bush asked Mr. Martin to review 61G17-1.010 with the committee. After discussion it was the consensus of the committee that approved schools and colleges were accredited by the regional association of colleges and universities recognized by the United States Department of Education.

Ms. Patterson advised the committee that verification of regional accreditation was part of the application process. Mr. Bush advised the committee that FSMS was currently in the process of researching long distance learning programs and asked the committee if the board has addressed this issue. Mr. Cooner stated that he did not feel this would be an issue because the colleges and universities monitor the distant learning programs and that the students received credits verified on their transcript.

Mr. Martin stated that as long as the student receives college credit verified on an official transcript, long distance learning courses should not be a problem.

Ms. Nobles advised the committee that Troy State University has a survey technology program that is identical to the University of Florida's surveying program but does not have ABET approval. Mr. Martin advised the board the rule 61G17-3.0021 addresses education approved by the board and that the surveying and mapping program has to be ABET accredited. Ms. Nobles stated that there are many other colleges that are beginning to put the surveying coursework in program areas. Ms. Nobles gave the engineering degree program as one example. Mr. Cooner stated this could be an issue and rule 61G17-3.0021 would need to be addressed.

Mr. Martin stated that the way 61G17-3.0021 was written the only course of study accepted would be ABET accredited. Mr. Martin stated that the rule would need to be changed if the board wanted to consider surveying and mapping programs not approved by ABET. Mr. Cooner stated that ABET has departed from the mastering of materials to setting goals.

After discussion it was the consensus of the committee to consider changing 61G17-3.0021 to include an alternative other than ABET accreditation. Ms. Sutphin suggested changing the language to say ABET accredited or program recognized by the Board. Mr. Martin advised the board that the board of engineers many years ago approved programs and they spent most of their time conducting the reviews. Mr. Martin advised the board that the board of engineers no longer reviews programs they only accept ABET accreditation.

Mr. Martin advised the committee that he could see two alternatives, one was to stay with an accrediting service that is recognized in the profession or switch to approval by program which

means the board would have to adopt extensive rules to set guidelines for the approval of programs. Mr. Martin stated that a committee would have to be appointed and someone on that committee would have to have knowledge of how to evaluate educational programs.

Mr. Martin stated that the board did have another alternative under 61G17-3.0021 (2)(b), the board could review the individual courses.

The committee discussed surveying and mapping programs in the state of Florida that were not titled surveying and mapping programs but were titled Geomatics and the program is not yet approved by ABET. The board agreed that it is a problem with the way Chapter 472.013 F.S. is written.

Ms. Nobles stated that part of the problem was that individuals want to become licensed in this state and they're not sure that the program they are enrolled in and taking courses are going to meet the education requirements for licensure. Ms. Nobles stated it also affects the number of years the candidate is required to complete experience. Mr. Cooner agreed.

Ms. Sutphin suggested having a professor from an ABET accredited program evaluate the courses. Mr. Martin stated that the board could consider using consultants but the final approval would be the board.

Mr. Martin advised the committee that set guidelines for review would have to be adopted or otherwise the first time the board did not approve the course of study it would be difficult for the board to defend. Mr. Martin also reminded the board that they have a foreign degree rule and he did not see the board reviewing and approving foreign degree programs.

After discussion Mr. Cooner asked Ms. Sutphin to work with Mr. Martin to work on draft language to allow Non –ABET surveying and mapping programs not titled surveying and mapping programs to be reviewed by the board.

Mr. Cooner advised the committee that he would like to see the board identify the 32 semester hours in the Florida colleges and universities as defined in Chapter 472. Mr. Cooner stated that FSMS was currently in the process of working on a list. Ms. Sutphin stated she would contact FSMS and bring information back to the board at their next meeting.

Chapter 61G17-2 – Grounds for Discipline

The committee reviewed rule 61G17-2 proposed draft language. After review the committee made changes to the draft to read as follows:

61G17-2.006 Time for Compliance With Final Order; Probation. (NEW)

(1) In cases where the Board imposes a civil penalty for violation of Chapter 455 or Chapter 472, Florida Statutes, or of the rules promulgated thereunder, the penalty shall be paid within 30 days of its imposition by order of the Board, unless a later time for payment is specified in the Board's Order. Moreover, unless otherwise addressed by the Board at hearings held pursuant to s. 120.57(2), F.S., whenever a civil penalty is levied at said hearing the respondent who is

disciplined shall have all licensure to practice surveying and mapping suspended with the imposition of the suspension being stayed for thirty (30) days. If the ordered civil penalty is paid within said thirty (30) day period, the suspension imposed shall not take effect. Upon payment of the civil penalty after the thirty (30) days, the suspension imposed shall be lifted. If the licensee does not pay the civil penalty, within said period, then immediately upon expiration of the stay, the licensee shall surrender his/her licensure to an investigator of the Department of Business and Professional Regulation or shall mail said license to the Board offices.

(2) Failure to pay the civil penalty within the time specified in this rule or in the Board's Order shall constitute grounds for further disciplinary action against the licensee.

(3) Failure to pay a fine within the time specified in this rule or in the Board's Order shall result in the assessment of an interest payment at an annual percentage rate of eighteen percent (18%); said interest shall begin to accrue from the date immediately succeeding the due date of the fine.

(4) For purposes of this rule, the term civil penalty shall include the assessment of any fines, costs associated with investigation and prosecution of the complaint, and restitution.

(5) In cases where the Board imposes probation for violation of Chapter 455 or Chapter 472, Florida Statutes, or of the rules promulgated thereunder, the following conditions shall apply:

(a) The licensee shall be required to appear before the Probation Committee of the Board at such times as directed by the Executive Director, or as specified in the Final Order. In connection with each probation appearance, the licensee shall answer questions under oath and shall provide **a list of all surveys performed including type of survey** since the entry of the final order if it is the first probation appearance or since the last probation appearance if it is other than the first probation appearance. In addition, the licensee shall provide such other information or documentation as is requested by either the Department, the Board or the Probation Committee. The licensee shall forward said documentation to the Board in advance of the probation appearance.

(b) The burden shall be solely upon the licensee to remember the requirement for said appearance, and to take the necessary steps in advance of said appearance to contact the Board office and ascertain the specific time, date, and place of said appearance. The licensee shall not rely on getting notice of said appearance from the Board or the Department.

(c) Should the licensee violate any condition of the probation, it shall be considered a violation of Section 472.033(1)(h), Florida Statutes, and shall result in further disciplinary action by the Board.

(d) Should the licensee fail to make a satisfactory appearance as determined by the Board, the term of the probationary period shall automatically be extended by six (6) months. If there occurs a second such failure, then the term of the probationary period will be extended an additional year. Should the Board determine a third failure of the licensee to make a satisfactory appearance, then the stay of suspension of the licensee's licensure to practice surveying and mapping shall be lifted and the license shall remain in suspended status unless and until a further stay is granted by the Board.

(e) Should the licensee's licensure to practice surveying and mapping be suspended or otherwise placed on inactive status, or if the licensee leaves the practice of surveying and mapping for thirty (30) days or more, the probation period shall be tolled and shall resume

running at the time the licensee reactivates the license or returns to the active practice of surveying and mapping, and the licensee shall then serve the time remaining in the term of probation.

(f) The licensee's licensure to practice surveying and mapping shall be suspended for the period of probation, with the suspension stayed for the period of probation. The time of the suspension and the stay shall run concurrently with the period of probation, except as provided otherwise in the Final Order. If the licensee successfully completes probation, the suspension shall terminate. If the licensee fails to comply with the requirements set forth in this rule or in the Final Order imposed in this case, or fails to make satisfactory appearances as determined by the Board, the stay shall be lifted. Once the stay is lifted, the license shall remain in suspended status unless and until a further stay is granted by the Board.

MOTION: Ms. Sutphin made a motion to approve draft language with changes.

SECOND: Mr. Lebron seconded the motion and it passed unanimously.

Ms. Nobles advised the board that 61G17-2.0015 had some grammatical errors. Ms. Nobles stated 61G17-2.0015 (2)(l), in the second offense section had a y that should have been by, and 61G17-2.0015 (2)(q), the word patient needed to be removed. Ms. Nobles suggested doing a word search in that rule for patient.

Ms. Poppell advised the board that she was concerned that the minimum and maximum fines for rule 61G17-2.0015 (2)(f), were not high enough for the offense. Ms. Poppell suggested that all offenses that impact the public should be increased.

Mr. Martin advised the board that if the offense violates Chapter 455 the maximum fine could be up to \$5000.00. Mr. Martin advised the board that the presence of consumer harm in a violation is an aggravating circumstance that allows the board to consider the maximum.

After discussion it was the consensus of the board to change the fines set in 61G17-2.0015 (2)(F). to the following:

First Offense: \$250 Minimum and \$500 Maximum

Second Offense: Minimum \$500 and \$750 Maximum

Third Offense: Minimum \$750 and \$1000 Maximum

After discussion Mr. Cooner asked Mr. Lebron to review 61G17-2.0015 (J) through (U) and evaluate the offenses and it's severity then draft language to change fines accordingly and bring draft language to the next meeting. Mr. Cooner suggested changing all \$100 fines to a minimum of \$250.

61G17-3 – Experience and Education Required for Examination

All ready discussed.

61G17-4 – Examination

Mr. Cooner suggested that the re-examination candidates have a limitation to the number of times they can take the examinations. Ms. Nobles advised the committee that the exam candidate population scores have not improved. Ms. Sutphin stated the exam security may be an issue with candidates being able to continue to take the exam without limitations.

Ms. Oliver suggested that the board allow the candidate to take each part three times and if they do not pass the candidate would have to re-apply for licensure.

Ms. Sutphin stated she was concerned with requiring the candidates to re-apply for licensure if they fail three times. Ms. Sutphin suggested allowing the candidate to take each part five times instead of three. Mr. Bush stated three times is sufficient time to pass an exam. Ms. Sutphin asked that the discussion be deferred until the committee could see the exam statistics. Ms. Oliver stated that there were about 100 candidates examined during the last administration and between 30-40 of the candidates had taken the examination at least five or six times. Ms. Oliver stated the statistics are available. Ms. Oliver stated she did not have a 4- year degree and she passed the exam and these candidates are taking the exam over and over again.

After discussion Mr. Cooner asked Mr. Martin to draft language to allow the candidate to take each part of the exam three times and if the candidate does not pass the candidate would have to re-apply for licensure. Mr. Martin advised the board that he would research to make sure the board has the statutory authority to promulgate such rule.

Ms. Nobles asked the committee to consider discontinuing the essay portion of the Florida exam. Mr. Cooner stated he would like to see the candidates examined on more laws and rules questions. Ms. Sutphin stated she would like to see the endorsement candidates take the essay portion of the Florida exam. Ms. Nobles stated that there was not a problem with the essay portion of the exam however administration was very costly.

Mr. Cooner advised the committee that the essay exam needed to be addressed but he would have to defer discussion to another meeting date.

61G17-5 – Continuing Education

Mr. Martin advised the board that he responded to Ms Printy's letter concerning the continuing education rule and a copy of the letter was in their agenda materials. Mr. Martin stated that Ms. Printy agreed with his response and the only issue outstanding was the continuing education forms and he was working with Ms. Patterson to get a copy.

Mr. Martin advised the committee that the rule had not been adopted yet. Mr. Martin stated that he did not mind making changes if the language was wrong.

The committee reviewed 61G17-5 and committee members did have some suggestions for change.

Ms. Nobles stated that she felt board members should receive continuing education credits for attending board meetings. Ms. Nobles stated that members participate in the meetings and discuss rules and laws four times a year for at least two days.

Mr. Cooner advised the committee that as long as you sign in you can get continuing education credits and there is no limitation of hours. Mr. Martin advised the committee that in accordance to the continuing education rule members would still have to take a MTS or Laws and Rules course. Ms. Nobles stated that the rule should be changed since each board member devote a lot of time to committee assignments out side of the scheduled board meetings. The committee agreed but no action was taken.

Ms. Sutphin suggested amending 61G17-5.0031 (1)(b) 2. Ms. Sutphin asked to take out presentation of such course or seminar in the last sentence. The committee and Mr. Martin agreed.

Ms. Sutphin suggested amending 61G17-5.0041 (3)(d). Ms. Sutphin stated that the word board should be changed to department since the board does not issue the course numbers. The committee and Mr. Martin agreed.

Ms. Sutphin stated that the way 61G17-5.0041 (2) reads you would think the provider and the instructor were one in the same and she suggested amending the language. Mr. Martin stated that the way he reads the rule the applicant has to demonstrate the instructor's credentials. Mr. Martin stated it could be either the continuing education provider or some one the provider hires. The committee did not take any action.

Ms. Sutphin suggested amending 61G17-5.0041 (6). Ms. Sutphin asked Mr. Martin if the course was a correspondence course would the current language work. Mr. Martin stated he did not see any problem with the language.

Ms. Sutphin suggested amending 61G17-5.-0051 (1)(e). Ms. Sutphin stated she felt the word instructor should replace the word applicant. Mr. Martin stated he did not see a problem with the language.

Mr. Gilmore addressed the board in reference to 61G17-5.0043 (13). Mr. Gilmore advised the committee that the correspondence courses are required to have the signature, raised seal, and the date and according to board rule the Internet courses are required to have the same. Mr. Gilmore stated that the surveyors are not going to go through the process of electronic signature and seals. Mr. Gilmore stated that this is a hardship.

Mr. Martin suggested that the continuing education provider's come forward with a different method of verification of identity and completion. Ms. Oliver suggested that once the licensee

had completed the exam the licensee would print the test and sign, seal, date, and mail to provider. The committee did not take any action.

Ms. Evers advised the board 61G17-5.0031(1)(e)(3) had a 60 day time frame and she was concerned that the licensee would be not be able to receive credit for professional association meetings if the meeting was close to the deadline. Ms. Patterson advised the board that the 60 day deadline was considered and the hours were not going to be reported by the provider but would be mailed to the Department for manual processing. Mr. Martin advised the board that the way the rule is written the meetings would have to be approved by the committee prior to getting credit. Ms. Nobles stated that as soon as the proposed rule has an effective date the board would need to consider changing the language.

Ms. Chastain advised the board that she would meet with the continuing education office to see if they could come up with a solution to this issue of reporting the hours.

61G17-6 – Minimum Techniquial Standards

Mr. Cooner deferred discussion of 61G17-6 to later in the meeting.

61G17-7 – Seals, Signatures and Certificates of Authorization

The committee did not have any discussion or action.

61G17- 8 – Fees

The committee did not have any discussion or action.

61G17 –9 – Penalties

Mr. Martin advised the board that the 61G17-9.006. rule draft was a duplication of the 61G17-2.006 rule draft that the board had already reviewed.

Ms. Nobles suggested that the committee consider that if a probationer's stay is lifted, the license shall remain in suspended status until the probationer takes and passes both parts of the Florida examinations.

Mr. Martin suggested adding the following language rule to 61G17-9.007 (3) (b).

If the stay is lifted, the license shall remain in suspended status until the probationer takes and passes both parts of the Florida Jurisdictional examination. The committee agreed.

The committee continued to review proposed draft language to 61G17-9.007. Mr. Cooner stated he was unsure if the department would have consultants available to review probationer's surveys. Mr. Pellegrini advised the board that consultants are compensated \$90 per hour and did not see a problem with finding consultants to review the probation surveys. Mr. Martin advised the board that the probationer would be paying the consultant's fees.

Mr. Martin suggested that the board secure a list of licensees who are interested in providing consultant services to review probation surveys and then the board could select from the list. Mr. Martin stated that the probationer and the consultant would work out payment arrangements.

Ms. Sutphin stated for the record that she did not agree with having a consultant review the probation surveys. She felt it was the board's responsibility to review.

Mr. Armenteros stated that the probation committee has tried to educate the probationer during the survey review and he does not feel that the committee is accomplishing the task of education. Mr. Armenteros stated that he did not feel that using a consultant would enhance the education of the probationer it would be just a report that the consultant would submit. Mr. Armenteros stated that he felt a monitor would assist the probationer better.

Mr. Bush stated that the board has been appointed to protect the public and it's not the board's responsibility to educate the probationer.

Mr. Martin reminded the board that consultants are used currently during the disciplinary process and probation is a follow up from the disciplinary process and the board has the final say. Mr. Martin suggested not including a monitor to allow him the time to work on monitor language.

Mr. Cooner advised the committee that he would like for the rule to have a testing period and he did not feel the board would have a problem with coming up with a list of consultants. Mr. Cooner stated he would like to get this rule passed through the committee and to the full board for consideration. Mr. Cooner asked the committee to move forward with the consultant language and bring the monitor language back for discussion. Mr. Armenteros stated he was in favor of the monitor and wanted to keep it as an option.

Ms. Nobles suggested to the committee that a consultant be used during the 1st survey review and if the probationer fails then the monitor comes into play and the monitor reports directly to the board. The committee was in favor of Ms. Nobles suggestion

Mr. Martin requested that the board allow him time to draft proposed language to include a monitor and bring the language back to the committee. Mr. Martin advised the board that he would make changes to the 61G17-9.007(1) (c) and add the language regarding the exams. Mr. Martin asked the board to consider moving forward with the proposed draft language.

MOTION: Ms. Sutphin made a motion to adopt 61G17-9.007 with changes.

SECOND: Mr. Lebron seconded the motion and it passed unanimously.

61G17-10- Supervision Standards

Ms. Sutphin advised the committee that the board had not set a standard as required by 472.003 (5)(a) and that was the reason of the proposed draft language. Mr. Martin reviewed the statute section with the committee. After discussion the following motion was made.

MOTION: Ms. Sutphin made a motion that the committee not take any action.
SECOND: Mr. Lebron seconded the motion and it passed unanimously.

Mr. Cooner stated for the record that the minimum technical standards would be discussed during the positional accuracy committee meeting.

OTHER BUSINESS

No other business.

There being no other business the meeting adjourned 5:55 p.m.