

**MINUTES
ENFORCEMENT COMMITTEE MEETING
TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS
1917 S. Interstate 35
Austin, Texas 78741
February 20, 2020—9:00 AM**

Discuss and Possibly Act on the Following Agenda Items:

1. Preliminary Matters:

A. Call to Order.

Mr. Lamberto Ballí, P.E., Chair, called the Enforcement Committee meeting of the Texas Board of Professional Engineers and Land Surveyors to order at 9:00 a.m. at the Texas Board of Professional Engineers and Land Surveyors, 1917 S. Interstate 35, Austin, TX. (NOTE: all votes are unanimous unless noted.)

B. Roll Call.

Ms. Bodden called the roll. It was noted for the record that a quorum was present.

The following Committee members were present:

Lamberto Ballí, P.E.	Chair
Albert Cheng	Public Member
Coleen Jonson, R.P.L.S.	Member
Catherine Norwood, P.E.	Member

Veena Mohan, Assistant Attorney General, was present to provide legal counsel to the Board.

The following staff members were present:

Lance Kinney, Ph.D., P.E.	Executive Director
Rick Strong, P.E.	Director of Licensing and Registration
Michael Sims, P.E.	Director of Compliance and Enforcement
Elissa Mazza	Staff Attorney
Cristabel Bodden	Executive Assistant

C. Excuse absent Committee members.

All Committee members were present.

D. Welcome Visitors.

Ademola Adejokun, P.E., Board Member; Terry Bilderback, P.E., Texas Society of Professional Engineers; Jessica Bogus, Texas Department of Transportation; Steven J. Freeman, II, Texas Society of Professional Surveyors; Edmundo Gonzalez, P.E., R.P.L.S., Advisory Member; Dr. Sina K. Nejad, P.E., P.Eng., Board Member; Rolando Rubiano, P.E., Board Member; and Kiran Shah, Public Member were present.

E. Public Comment.

None.

Dr. Kinney stated that with the merger in September 2019, Board staff were now responsible for updating and merging the rules under the Texas Board of Professional Surveying with the rules under the Texas Board of Professional Engineers.

Dr. Kinney stated that Chapter 137, 138, and 139 rules included in this agenda were part of the Enforcement rules of the agency.

Rule proposals were vetted through the Surveying Advisory Committee.

An exhibit was provided for the Committee detailing additions, modifications and changes to Chapter 137, 138, and 139 rule proposals listed in this Agenda.

2. Proposed Amendments to Add 22 Tex. Admin. Code Chapter 138, Subchapter A – Individual and Surveyor Compliance.

- **§138.1 – License and Registration Holder Designations.**
- **§138.5 – Notifications of Name Change, Address Change, Employer Change, and Criminal Convictions.**
- **§138.7 – License or Registration Expiration and Renewal.**
- **§138.9 – Renewal for Expired License or Registration.**
- **§138.11 – Expiration and Licensed or Registered in Another Jurisdiction.**
- **§138.13 – Inactive Status.**
- **§138.14 – Voluntary Surrender of License or Registration.**
- **§138.15 – Replacement of Printed Licenses or Certificates.**
- **§138.17 – Continuing Education.**

Dr. Kinney discussed Chapter 138, Subchapter A – Individual and Surveyor Compliance rule proposals prepared by Board staff with the Committee.

It was MOVED/SECONDED (Ballí/Norwood) to recommend to the Board at its Regular Quarterly Board meeting on February 20, 2020, that the Board propose for publication in the Texas Register Chapter 138, Subchapter A rules submitted and discussed by staff, contingent upon no substantive changes to the rules after the Governor's Office review. In addition, staff will work with legal counsel to determine if a change made by the Governor' Office is a legally substantive change. A vote was taken and the MOTION PASSED.

3. Proposed Amendment to 22 Tex. Admin. Code Chapter 139, Subchapter A – General Enforcement Authority.

- **§139.1 – General.**

Dr. Kinney discussed Chapter 139, Subchapter A – General Enforcement Authority rule §139.1 – General proposal prepared by Board staff with the Committee.

It was MOVED/SECONDED (Ballí/Norwood) to recommend to the Board at its Regular Quarterly Board meeting on February 20, 2020, that the Board propose for publication in the Texas Register Chapter 139, Subchapter A rule submitted and discussed by staff, contingent upon no substantive changes to the rules after the Governor’s Office review. In addition, staff will work with legal counsel to determine if a change made by the Governor’s Office is a legally substantive change. A vote was taken and the MOTION PASSED.

4. Proposed Amendment to 22 Tex. Admin. Code Chapter 139, Subchapter B – Complaint Process and Procedures.

- **§139.11 – Complaints – General.**
- **§139.13 – Filing a Complaint.**
- **§139.17 – Investigating a Complaint.**
- **§139.19 – Final Resolution of a Complaint.**
- **§139.21 – Reporting Complaint Status to the Board.**
- **§139.23 – Technical Consultants.**

Dr. Kinney discussed Chapter 139, Subchapter B – Complaint Process and Procedures rule proposals prepared by Board staff with the Committee.

It was MOVED/SECONDED (Ballí/Norwood) to recommend to the Board at its Regular Quarterly Board meeting on February 20, 2020, that the Board propose for publication in the Texas Register Chapter 139, Subchapter B rules submitted and discussed by staff, contingent upon no substantive changes to the rules after the Governor’s Office review. In addition, staff will work with legal counsel to determine if a change made by the Governor’s Office is a legally substantive change. A vote was taken and the MOTION PASSED.

5. Proposed Amendment to 22 Tex. Admin. Code Chapter 139, Subchapter C – Enforcement Proceedings.

- **§139.31 – Enforcement Actions for Violations of the Acts or Board Rules.**
- **§139.33 – Informal Settlement Conferences.**

Dr. Kinney discussed Chapter 139, Subchapter C – Enforcement Proceedings rule proposals prepared by Board staff with the Committee.

It was MOVED/SECONDED (Ballí/Norwood) to recommend to the Board at its Regular Quarterly Board meeting on February 20, 2020, that the Board propose for publication in the Texas Register Chapter 139, Subchapter C rules submitted and discussed by staff, contingent upon no substantive changes to the rules after the Governor’s Office review. In addition, staff will work with legal counsel to determine if a change made by the Governor’s Office is a legally substantive change. A vote was taken and the MOTION PASSED.

6. Proposed Amendment to 22 Tex. Admin. Code Chapter 139, Subchapter D – Special Disciplinary Provisions for License or Registration Holders.

- **§139.41 – License or Registration Holder with Renewable, Expired License or Registration.**
- **§139.43 – License or Registration Holder with Criminal Convictions.**
- **§139.45 – Restitution.**
- **§139.47 – Probation.**
- **§139.49 – License or Registration Suspension / Revocation Based on Status Review.**
- **§139.51 – License or Registration Suspension Based on Delinquent Child Support.**

Dr. Kinney discussed Chapter 139, Subchapter D – Special Disciplinary Provisions for License or Registration Holders rule proposals prepared by Board staff with the Committee.

It was MOVED/SECONDED (Ballí/Norwood) to recommend to the Board at its Regular Quarterly Board meeting on February 20, 2020, that the Board propose for publication in the Texas Register Chapter 139, Subchapter D rules submitted and discussed by staff, contingent upon no substantive changes to the rules after the Governor’s Office review. In addition, staff will work with legal counsel to determine if a change made by the Governor’s Office is a legally substantive change. A vote was taken and the MOTION PASSED.

7. Proposed Amendment to 22 Tex. Admin. Code Chapter 139, Subchapter E – Hearings.

- **§139.63 – Extensions of Time.**

Dr. Kinney discussed Chapter 139, Subchapter E – Hearings rule §139.63 – Extensions of Time proposal prepared by Board staff with the Committee.

It was MOVED/SECONDED (Norwood/Shah) to recommend to the Board at its Regular Quarterly Board meeting on February 20, 2020, that the Board propose for publication in the Texas Register Chapter 139, Subchapter E rule submitted and discussed by staff, contingent

upon no substantive changes to the rules after the Governor’s Office review. In addition, staff will work with legal counsel to determine if a change made by the Governor’s Office is a legally substantive change. A vote was taken and the MOTION PASSED.

8. Proposed Amendment to 22 Tex. Admin. Code Chapter 137, Subchapter A – Individual and Engineer Compliance.

- **§137.7 – License Expiration and Renewal.**
- **§137.9 – Renewal for an Expired License.**
- **§137.13 – Inactive Status.**

Dr. Kinney discussed Chapter 137, Subchapter A – Individual and Engineer Compliance rule proposals prepared by Board staff with the Committee.

It was MOVED/SECONDED (Norwood/Shah) to recommend to the Board at its Regular Quarterly Board meeting on February 20, 2020, that the Board propose for publication in the Texas Register Chapter 137, Subchapter A rules submitted and discussed by staff, contingent upon no substantive changes to the rules after the Governor’s Office review. In addition, staff will work with legal counsel to determine if a change made by the Governor’s Office is a legally substantive change. A vote was taken and the MOTION PASSED.

9. Compliance & Enforcement Report.

- **Update on Compliance & Enforcement Department.**

Mr. Sims provided an update on Compliance and Enforcement staff. He relayed that there were two current openings for Investigators and interviews for these positions would begin in early March.

- **Status on Compliance & Enforcement caseload.**

Mr. Sims stated that there are 109 new cases, 78 closed cases, and 304 cases pending in the second quarter of Fiscal Year 2020. Mr. Sims reported that the average processing timeframe for cases will increase during the next year due to staff shortages.

- **Status of Continuing Education audit(s).**

The December 2019 Professional Engineer audits are nearly complete. Only ten percent of the audits need to be resolved as of the current date.

10. Issues for consideration for future board meetings.

Mr. Rubiano relayed that in reference to Continuing Education, the Texas Society of Professional Surveyors had reached out to him with concerns of removing the pre-approval of Continuing Education courses in their state program.

Mr. Ballí relayed he had the same concern and asked Mr. Rubiano to discuss this issue at the Regular Board meeting since it was not on the Agenda.

11. Adjourn.

It was MOVED/SECONDED (Norwood/Johnson) to adjourn the meeting at 9:23 a.m. A vote was taken and the MOTION PASSED.

Date Board accepted minutes:

May 21, 2020