

**BOARD OF PROFESSIONAL ENGINEERS, ARCHITECTS,
SURVEYORS AND LANDSCAPE ARCHITECTS**
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

The agenda for this meeting was posted to the State electronic calendar as required by Hawaii Revised Statutes ("HRS") section 92-7(b).

Date: Thursday, December 14, 2023

Time: 10:00 a.m.

Place: King Kalakaua Conference Room, First Floor
HRH King Kalakaua Bldg.
335 Merchant Street
Honolulu, Hawaii 96813

Present: Janet Primiano, Public Member, Chair
Kevin Katayama, Mechanical Engineer Member, Vice Chair
Brian Fujiwara, Architect Member
Dan Hirota, Land Surveyor Member
Tony Lau, Civil Engineer Member
Benedict Lee, Landscape Architect Member
Ken Ota, Public Member
Clayton Pang, Electrical Engineer Member
Roberto Yumol, Architect Member

Members Excused: Jay Ishibashi, Public Member
Joel Kurokawa, Landscape Architect Member
Howard Lau, Structural Engineer Member

Staff: Sheena Choy, Executive Officer ("EO Choy")
Christopher Leong, Deputy Attorney General ("DAG")
Kawehi Mau, Secretary

In-Person Guests: None

Call to Order: The Chair took roll call of the Board members and excused Mr. Ishibashi, Mr. Kurokawa, and Mr. Howard Lau.

There being a quorum, the Chair called the meeting to order at 10:02 a.m.

Chair's Report: **Approval of the Minutes of the October 12, 2023 meeting**

The Chair asked if there were any corrections to or discussion of the open session or executive session minutes for the October 12, 2023 meeting.

There was none.

Upon a motion by Mr. Tony Lau, seconded by the Vice Chair, it was voted on and unanimously carried to approve the open session minutes of the October 12, 2023 meeting.

Upon a motion by Mr. Tony Lau, seconded by Mr. Pang, it was voted on and unanimously carried to approve the executive session minutes of the October 12, 2023 meeting.

New Business:

Testimony from Tyler Thornbrue regarding the addition of “Control Systems Engineering” to the disciplines licensed by the EASLA Board

The letter from Mr. Thornbrue requests the Board to consider adding “Control Systems Engineering” as a Professional Engineering (“PE”) discipline in the State. The letter was also signed with support from 14 other individuals.

EO Choy reminded the Board that Hawaii Administrative Rules (HAR) 16-115 currently allows for the Board to license nine (9) PE disciplines: agricultural, chemical, civil, electrical, environmental, fire protection, industrial, mechanical, and structural engineering. Any additional disciplines would need to be added through the rules revision process.

Seeing no further discussion, the Chair announced the next agenda item.

Formation of Rules Permitted Interaction Group (“PIG”)

The Chair stated that the Board is considering formation of a Permitted Interaction Group (“PIG”) pursuant to HRS §92-2.5(b).

EO Choy stated that the purpose(s) of a establishing a PIG are to:

- 1) Evaluate the existing HAR §16-115 and provide recommendations to the Board for rules revisions

EO Choy recommended that at least 1 member from each profession be represented on the Rules PIG. The meetings may be held in-person or virtually.

EO Choy explained that the PIG will report their recommendations at a future, duly noticed Board meeting. Public comment will be open at that meeting, but the Board will not deliberate or make any decisions. At the meeting following the PIG report, public comment will again be available, and the Board will deliberate and make decisions.

Having established the scope of the PIG, the Board appointed the following as PIG members:

- 1) Kevin Katayama

- 2) Joel Kurokawa
- 3) Howard Lau
- 4) Dan Hirota
- 5) Roberto Yumol

Upon a motion by the Vice Chair, seconded by Mr. Fujiwara, it was voted on and unanimously carried to establish the proposed PIG.

Scope of Practice

Email inquiry from Mike Bramhall regarding possible scenarios for an individual to gain structural engineering lawful experience to qualify to sit for the structural engineering exam and/or be licensed in Hawaii

The Chair read the email inquiry from Mike Bramhall. Mr. Bramhall is seeking guidance for a colleague who is not a licensed structural engineer, but who wishes to gain structural engineering experience in order to eventually sit for the structural engineering exam. Said individual's firm does not currently employ structural engineers or offer structural engineering work. Mr. Bramhall requests Board guidance on the following four scenarios:

1. My company acts as a subconsultant to his company – In this scenario, he would take on a structural engineering project, but subconsult the supervision of the work to me and my company so that he can gain the necessary LE.
2. His company acts as a subconsultant to my company – In this scenario, my company would be the prime, but we would retain his company as a subconsultant where he would work on the structural aspects under my supervision.
3. He serves as a contract employee to my company – Similar to the previous scenario, but he would be retained as a contract employee for the duration of the project, with all his work being done with oversight from me.
4. I work as a part-time employee to his company (likely being a partner so that his company has an officer that is a licensed structural engineer) – in this scenario, his firm would have to register as a structural engineering firm (with appropriate insurance) and I would act as an officer and oversee all his work.

EO Choy reminded the Board that pursuant to HAR 16-115, professional engineer licensure applicants must have their experience verified by PEs licensed in the same discipline for which they are applying, unless a

structural applicant is submitting verification from a PE-civil in a jurisdiction that considers structural engineering a part of civil engineering.

§16-115-39 Lawful experience. (a) The following may be acceptable lawful experience subject to the evaluation and approval of the board:

- (1) Field, including construction, and office training or experience in engineering under the supervision of licensed professional engineers who are in the same branch in which the person seeks licensure;
- (2) For structural engineering applicants from a jurisdiction in which structural engineering is considered a part of civil engineering, field and office training in structural engineering under the supervision of a licensed professional civil engineer in that jurisdiction; or

The individual who Mr. Bramhall would be supervising is currently a licensed mechanical engineer who wants to eventually qualify to sit for the structural exam, and therefore needs to gain the requisite lawful experience in structural engineering.

EO Choy stated that these scenarios appear unusual and she is unsure what is typical in the industry. However, she reminded the Board that HAR §16-115-2 defines "supervise", "supervision", "supervision of design", or "under the supervision of":

§16-115-2 Definitions. "Supervise", "supervision", "supervision of design", or "under the supervision of" means that a licensed engineer, architect, surveyor, or landscape architect, as the case may be, shall:

- (1) Exercise direct control and oversee the subject activity through physical presence or through the use of communication devices; provided the licensee has both direct control and detailed professional knowledge of the work being supervised; or
- (2) Substantially redraft, redraw, redesign, or recalculate the plans, specifications, and other related documents;

and be responsible for all work within the licensee's discipline performed on plans, specifications, and other related documents.

EO asked the Board if, given HAR §16-115-2, would Mr. Bramhall not meet the definition of "supervision" in any of the four scenarios he proposes.

Mr. Hirota stated that in the past, the Board has approved subconsultant work similar to Mr. Bramhall's scenarios #2 and #3.

Mr. Tony Lau stated that scenario #3 appears to be the clearest option.

Mr. Fujiwara stated that scenario #1 isn't a good option. He questioned how the individual could take on a structural engineering project when he is not a structural engineer.

EO Choy stated that she is concerned about scenario #4 if Mr. Bramhall is a “part-time employee” to the individual’s company. Pursuant to HAR §16-115-4, whoever is in direct charge of the work must be “a full-time employee, principal, officer, partner, member, or manager of the business entity, and shall have been delegated the legal authority to bind the business entity in all matters relating to the professional work.”

§16-115-4 Business entities. Pursuant to chapters 428 and 464, HRS, a corporation, partnership, or limited liability company may engage in the practice of professional engineering, architecture, land surveying, or landscape architecture in the State provided the person or persons connected with the business entity directly in charge of the professional work is or are duly licensed under chapter 464, HRS. The person or persons in direct charge shall be full-time employee, principal, officer, partner, member, or manager of the business entity, and shall have been delegated the legal authority to bind the business entity in all matters relating to the professional work.

Mr. Fujiwara questioned how, in scenario #4, the individual would register his firm as a “structural engineering firm” when he is not yet, in fact, a structural engineer.

Mr. Tony Lau stated that in order for Mr. Bramhall to actually maintain supervisory control over the work, they would need to be in communication often either in-person or via virtual means.

Mr. Hirota added that as a “supervisor,” Mr. Bramhall would need to be often reviewing the individual’s work and stamping it.

EO Choy asked if Mr. Bramhall were to “supervise” the individual as outlined in scenarios #2 or #3, and the individual then applied with the Board to sit for the structural engineering exam, would the Board count all his experience supervised by Mr. Bramhall.

Mr. Hirota stated that if the individual was a subconsultant, his experience record would show many short-term projects. All the work would have to add up to the minimum required years of lawful experience; he could not just submit them as one blanket time period.

Mr. Katayama stated that whoever is this individual’s supervisor must be stamping all his drawings.

EO Choy summarized that she will inform Mr. Bramhall of the following regarding his four proposed scenarios:

1. My company acts as a subconsultant to his company – In this scenario, he would take on a structural engineering project, but subconsult the supervision of the work to me and my company so that he can gain the

necessary LE.

For scenario #1, the Board notes concerns with how the experience is gained and questions how the individual would take on a structural engineering project when he is not a licensed structural engineer. The individual is reminded that pursuant to HRS §464-14 and HAR §16-115-10, advertising in a false, misleading, or deceptive manner or holding oneself out as authorized/qualified to practice work they are not licensed for (e.g. structural work when not licensed structural) is considered misconduct in the practice/unlicensed activity and may be subject to penalties or other disciplinary action.

§464-14 Unlicensed activity; penalties. (a) Any person who practices, offers to practice, or holds oneself out as authorized and qualified to practice professional engineering, architecture, land surveying, or landscape architecture in the State, except as provided in sections 464-3 and 464-5; or who uses the title "engineer", "architect", "land surveyor" or "landscape architect", or any title, sign, card, or device to indicate that such person is practicing professional engineering, architecture, land surveying, or landscape architecture, or is a professional engineer, architect, land surveyor, or landscape architect, without having first acquired a license in accordance with this chapter and without having a valid unexpired license; or who uses or attempts to use as the person's own the seal, certificate or license of another, or who falsely impersonates any duly licensed practitioner hereunder, or who uses or attempts to use an expired, suspended, or revoked license shall be fined not more than \$500 or imprisoned not more than one year, or both.

(b) Any corporation or copartnership which advertises that it furnishes architectural, engineering, land surveying, or landscape architectural services in the making of plans or specifications or in the construction of any building or other structure, without first complying with section 464-12; or any corporation or copartnership which furnishes or offers to furnish architectural, engineering, land surveying, or landscape architectural services for the construction of any building, structure, project, or utility in the State, without first complying with section 464-12, shall be fined not more than \$1,000. Notwithstanding any law to the contrary, persons, corporations, or copartnerships working on structures exempted in section 464-13 shall not be affected by this subsection.

§16-115-10 Misconduct in the practice. Misconduct in the practice of the profession of engineering, architecture, land surveying, or landscape architecture means without limitation the following:

- (3) Advertising in a false, misleading, or deceptive manner;
- (4) "Plan stamping"; i.e. sealing, stamping, or certifying any document which was not prepared by or supervised by the licensee; and
- (5) Misrepresentation, deceit, fraud, gross negligence, and other

offenses relating to misconduct of the licensee's practice.

2. His company acts as a subconsultant to my company – In this scenario, my company would be the prime, but we would retain his company as a subconsultant where he would work on the structural aspects under my supervision.

The Board notes that scenarios #2 and #3 appear to be the cleanest way of the 4 scenarios for the individual to gain lawful experience in structural engineering. However, Mr. Bramhall and the individual are reminded of the following:

- If the individual gains experience as a subconsultant, he should submit all the structural-only projects he worked on, with timelines, indicating full-time versus part-time work, and should not lump multiple projects together in one continuous time period if they were separate engagements.
 - If the individual is only licensed PE-mechanical, he may not stamp or seal structural drawings, or any other work outside of the discipline for which he is licensed in Hawaii.
 - The individual's structural engineering supervisor must be the one to stamp or seal all the work.
 - Whoever is supervising the individual's work should be in frequent communication with the individual to ensure that the supervision meets the Board's definition in HAR 16-115-2.
3. He serves as a contract employee to my company – Similar to the previous scenario, but he would be retained as a contract employee for the duration of the project, with all his work being done with oversight from me.

Response is the same as scenario #2.

4. I work as a part-time employee to his company (likely being a partner so that his company has an officer that is a licensed structural engineer) – in this scenario, his firm would have to register as a structural engineering firm (with appropriate insurance) and I would act as an officer and oversee all his work.

For scenario #4, the Board notes concerns with Mr. Bramhall's role as a "part-time" employee of the individual's company. Pursuant to HAR §16-115-4, whoever is in direct charge of the work must be "a full-time employee, principal, officer, partner, member, or manager of the business entity, and shall have been delegated the legal authority to bind the business entity in all matters relating to the professional work." Additionally, the Board questions how the individual would register the firm as a "structural engineering firm" when he is not, in fact, a structural engineer.

Please see the board's relevant laws and rules for more details. Please be advised that in accordance with Hawaii Administrative Rules (HAR) section 16-201-90, the above interpretation is for informational and explanatory purposes only. It is not an official opinion or decision, and therefore is not to be viewed as binding on the board, or the Department of Commerce and Consumer Affairs.

Seeing no further discussion, the Chair announced the next agenda item.

Old Business:

Formation of a Permitted Interaction Group ("PIG") pursuant to HRS §92-2.5(b) to investigate acceptance of the Canadian Architectural Certification Board (CACB) education evaluation as an evaluator for foreign architect degrees

EO Choy stated that at the October 12, 2023 meeting, the Board started discussion on the consideration of adding the Canadian Architectural Certification Board ("CACB") as an approved evaluator of foreign architect degrees. Currently, the Board has only approved the National Architectural Accrediting Board's ("NAAB") Education Evaluation Services for Architects ("EESA"), effective May 1, 2012, for evaluating foreign architect degrees.

Pursuant to HAR 16-115, all applicants who wish to have a foreign degree considered for licensure must "submit an official report by a professional service approved by the board which has evaluated the person's foreign credentials."

The purpose(s) of a establishing a PIG are to:

- 1) Investigate the CACB Education Standard for equivalency to NAAB/the NCARB Education Standard
- 2) Provide recommendations to the Board regarding the acceptance of the CACB as an approved evaluator of foreign architect degrees

EO Choy explained that the PIG will report their recommendations at a future, duly noticed Board meeting. Public comment will be open at that meeting, but the Board will not deliberate or make any decisions. At the meeting following the PIG report, public comment will again be available, and the Board will deliberate and make decisions.

Having established the scope of the PIG, the Board appointed the following as PIG members:

- 1) Brian Fujiwara
- 2) Roberto Yumol

Upon a motion by Mr. Yumol, seconded by Mr. Pang, it was voted on and unanimously carried to establish the proposed PIG.

Applications:

Ratification Lists

Upon a motion by Mr. Tony Lau, seconded by Mr. Hirota, it was voted on and unanimously carried to approve the attached ratification list.

Recommendations from Application Review Committees

Upon a motion by Mr. Tony Lau, seconded by Mr. Fujiwara, it was voted on and unanimously carried to approve the recommendations from the following Application Review Committees:

- 1) Professional Engineer Committee
- 2) Professional Architect Committee
- 3) Professional Surveyor Committee
- 4) Professional Landscape Architect Committee

The Chair asked for a motion to enter into executive session in accordance with HRS §92-4 and §92-5(a)(1) and (4) "To consider and evaluate personal information relating to individuals applying for licensure;" and "To consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities;".

Executive Session:

At 10:25 a.m. upon a motion by the Chair, seconded by Mr. Pang, it was voted on and unanimously carried to enter into executive session.

At 10:35 a.m., upon a motion by the Chair, seconded by Mr. Yumol, it was voted on and unanimously carried to move out of executive session.

The Chair summarized that in Executive Session, the Board considered and evaluated personal information relating to individuals applying for licensure and consulted with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities. The Board will now vote in Open Session.

Engineer Applications

Anthony Adamo

Upon a motion by Mr. Tony Lau, seconded by Mr. Yumol, it was voted on and unanimously carried to approve the application for Mr. Adamo.

Glenn Keates

Upon a motion by Mr. Pang, seconded by Mr. Katayama, it was voted on and unanimously carried to approve the application for Mr. Keates.

Architect Applications

Gerald Karle

Upon a motion by Mr. Fujiwara, seconded by Mr. Yumol, it was voted on and

unanimously carried to approve the application for Mr. Karle.

Mr. Lee arrived at 10:37 a.m.

Executive Officer's
Report:

Surveyors and Landscape Architects State Exams – PSI Updates

EO Choy reminded the Board that exam proctoring services for the Landscape Architect's Hawaii Plant Materials ("HPM") State Exam and the Surveyor's Hawaii Description Writings ("HDW") State exam have been transferred to PSI Services, LLC.

The HPM exam proctoring transfer has been effective as of June 16, 2023; updates from the HPM PIG are to be effective as of December 20, 2023.

The HDW exam transfer will be effective as of December 20, 2023 when the exam goes "live" on PSI's website; the exam will include the updates from the HDW PIG.

Surveyor and landscape architect applicants with state exam applications currently in progress have been or will be contacted by the Professional and Vocational Licensing ("PVL") Exam Branch with appropriate updates. An announcement will also be available on the Board's website.

The Board has been provided with a printout of the HPM Candidate Information Bulletin ("CIB") that is available to all candidates on the PSI website and includes test-taking information and references. A CIB for the HDW exam will also be available on the PSI website once the exam goes "live."

The re-take policy for both exams will remain the same. In accordance to HAR §16-115-77 and HAR §16-115-96, applicants who do not pass the HPM or HDW exam may re-take the test every 90 days while their application with the Board is valid.

Exam Updates from NCEES

EO Choy stated that NCEES has informed state Boards that the NCEES exam calendar has been updated for the 2024 exams. All applicants are advised to contact NCEES directly regarding exam details and scheduling, particularly for the new format updates for the administration of the 16-hour Structural Engineering Exam.

The Board was also provided with a printout of the EASLA examination page on the Board's website:

<https://cca.hawaii.gov/pvl/boards/engineer/application-deadline-examination-dates/>.

Governor's Eighth Proclamation Relating to Maui Wildfires

EO Choy stated that the State is currently operating under Governor Green's Eighth Emergency Proclamation Relating to [the Maui] Wildfires ("Proclamation"). The exact text of the Proclamation is available at: <https://governor.hawaii.gov/emergency-proclamations/>.

All individuals are advised that the Proclamation does not exempt any provision for licensure in HRS Chapter 464 or HAR Chapter 115. Anyone who wishes to practice professional engineering, architecture, surveying, or landscape architecture in the State of Hawaii must hold a current and active license that is in good standing.

The Emergency Proclamation only suspends HRS §464-4, regarding public works required to be supervised by professional engineers, architects, surveyors, or landscape architects, to the extent necessary to respond to the emergency.

All individuals and employers are reminded that pursuant to HRS §464-2 and §464-12 practice without a license is strictly prohibited. Further, HRS §464-10 provides the Board with the authority to suspend, revoke, and/or fine licensees and/or otherwise impose administrative penalties for unauthorized activities.

2024 Board Meeting Schedule

EO Choy stated that the Board was provided with the meeting schedule for 2024. The scheduled dates are as below, subject to change:

- February 8, 2024
- April 11, 2024
- June 6, 2024
- August 8, 2024
- October 10, 2024
- December 12, 2024

Reminder: Ethics Training

EO Choy reminded the Board that Board members are required to complete mandatory ethics training every 4 years, no later than December 31, 2023.

Next Meeting:

Date: **February 8, 2024**
Time: 10:00 a.m.
Location: King Kalakaua Conference Room
King Kalakaua Building, 1st Floor
335 Merchant Street
Honolulu, Hawaii 96813

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Adjournment: There being no further business, the Chair adjourned the meeting at 10:48
a.m.

Taken and Reviewed by:

/s/ Sheena Choy

Sheena Choy
Executive Officer

01/24/24

[X] Minutes approved as is.

[] Minutes approved with changes; see minutes _____.

