

BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS

State of Florida Department of Business and Professional Regulation
Newsletter - November 1997

GOVERNOR
Lawton Chiles

SECRETARY OF THE DEPARTMENT
Richard T. Farrell

BOARD MEMBERS
Professional Members
David W. Gibson, P.S.M.
Chair - Gainesville

Eugene W. Stoner, P.L.S.
Vice-Chair - Ft. Lauderdale

Henry Echezabal, P.L.S.
Tampa

Patricia Gail Oliver, P.S.M.
St. Augustine

Oscar W. Pittman, P.L.S.
Pensacola

Margarita Weidener, P.L.S.
Miami

Charles G. Woodward, P.S.M.
Orlando

Consumer Members
Beth E. Antrim-Berger
Bradenton

Ralph Armstead
Orlando

BOARD COUNSEL
Lealand McCharen
Assistant Attorney General

PROSECUTING ATTORNEY
Leon Biegalski
Senior Attorney

EXECUTIVE DIRECTOR
Ed Broyles

BOARD OFFICE STAFF
Sharon Guilford
Renese Jones
Tammy Ganey

Board Office
DBPR, Board of Surveyors and Mappers
1940 North Monroe Street
Tallahassee, Florida 32399-0756

Phone Number (850) 413-7480
Fax Number (850) 922-2918

Table of Contents

| | |
|---|---|
| Message from the Chair | 1 |
| Executive Director News | 2 |
| Board Activity | 2 |
| Upcoming Meetings | 3 |
| Probable Cause Panel Meeting | 3 |
| Citations and Notices of Non-Compliance | 3 |
| Variance and Waiver Information .. | 3 |
| 61G17 Rule Changes | 4 |
| Rule Hearing 61G17-6.002 | 4 |
| Licensure Status | 5 |
| Unlicensed Activity | 5 |
| Application Committee | 5 |
| Continuing Education Committee | 6 |
| Examination Committee | 6 |
| Probation Committee | 6 |
| Laws and Rules of the Professions | 6 |
| Address Change Form | 6 |
| Addendum to Roster of Licensees . | 6 |
| Disciplinary Action Report | 6 |

Message from the Chair

WHAT DO WE CALL OURSELVES?

Dave Gibson, Board Chair

Since 1994, when Chapter 472 changed from "Land Surveying" to "Surveying and Mapping", the profession has become quite diverse, and practitioners are using different titles -- RLS, PLS, PSM, etc. The question has been posed as to whether we should all use the same title or whether diversity is OK. The Board addressed this issue at its September meeting and decided that we will have to stay with diversity in professional titles, at least at present.

There were several principles used in the 1994 law that changed Chapter 472 from Land Surveying to Surveying and Mapping. An undivided single profession of Surveying and Mapping was created -- following the "engineering model" where each licensee is a "professional engineer", without specialty certification. The licensee is bound by ethics and Rule 61G17-2.001(6)(c) to practice only within areas of expertise as shown by education, examination, and experience. As of January 1, 1995, there were two grandfatherings -- the 70 or so photogrammetric mappers were brought into the undivided surveying and mapping license, and the pre-existing 2400 land surveyors

were grandfathered into the same new license.

Chapter 472 was not intended to regulate the particular professional title chosen by the licensee. These deal with the individual's own chosen identity and may be tied to marketing questions, but not regulation. Therefore, during passage of the 1994 legislation, it was planned that the individual could choose an appropriate professional title when offering services to the public as long as the public is not misled.

Chapter 472 does give the Board rule making authority to specify the seal that must be used and these are specified graphically in 61G17-7. Older seals were allowed to continue after the change -- RLS, or the PE-RLS combination. However, all newly granted licensees would have to obtain the new seal, which was prescribed in rule to be "Registered Surveyor and Mapper".

Continued use of the term "registered" in the prescribed seal was probably an oversight, but it has been going on for a long time. When Chapter 472 changed title to Professional Land Surveying in the 70's, the seal remained "registered land surveyor". Most practitioners changed identity from RLS to PLS, but the prescribed seal never changed from RLS. We have the same situation now, only we have some people choosing to stay with Registered Land Surveyor, others with Professional Land Surveyor, some with Professional Surveyor and Mapper, and the diversity of identity will probably increase.

Based on all of this, I think that any of the following combinations would be OK when signing a survey map:

Name, PS
Professional Surveyor
PS #2836
(use old RLS or new RSM seal)

Name, LS
Land Surveyor
LS #2836
(use old RLS or new RSM seal)

Name, PLS
Professional Land Surveyor
PLS #2836.
(use old RLS or new RSM seal)

Name, PSM
Professional Surveyor and Mapper
PSM #2836.
(use old RLS or new RSM seal)

Name, PE and LS
Professional Engineer and Land Surveyor
PE#____, PLS #2836.
(use old PE-RLS, old RLS, or new RSM seal)

Name, RLS
Registered Land Surveyor
RLS #2836.
(use old RLS or new RSM seal)

Name, PPM
Professional Photogrammetric Mapper
PPM #5555
(use new RSM seal)

The public would be misled if unlicensed persons used a title implying state licensure in surveying or mapping. Therefore, as for a general statement of current Board policy, only licensees under Chapter 472 could use job or professional titles that mix the

words "licensed", "registered", or "professional" with the words "surveyor" and/or "mapper". So, as for now, diversity is OK.

Executive Director News

We are pleased to announce that Sharon Guilford has rejoined the board office. Sharon is a Regulation Specialist II and has previously worked in the Surveyors and Mappers Board office. Sharon's responsibilities include noticing Board meetings, preparing all agenda materials, meeting arrangements, maintaining the probation report and required follow up in probation matters. If you have any questions regarding these matters, please call Sharon at (850) 413-7480.

Board Activity

The Board has been very busy with various hearings, committee meetings and board meetings. In order to reduce meeting and travel cost the Board holds most of it's committee meetings the day preceding the full board meeting.

| | |
|-----------------------|------------------|
| Examination Committee | Sept. 12 |
| Probable Cause Panel | Sept. 23 |
| Continuing Education | Sept. 23 |
| Probation Committee | Sept. 23 |
| Application Committee | Sept. 24 |
| Rule Hearing | Sept. 24 |
| Full Board Meeting | Sept. 24 |
| Full Board Meeting | (cont.) Sept. 25 |

Upcoming Meetings

The first Board and Committee Meetings of 1998 have been scheduled for January 14 through 16, 1998 in Tallahassee.

The spring Board and Committee Meetings have been tentatively scheduled for April 1 through 2, 1998. These meetings will be held in Orlando in conjunction with the Southern Zone meeting of the National Council of Examiners for Engineers and Surveyors. The Florida Board of Professional Surveyors and Mappers along with the Florida Board of Professional Engineers will be the host boards for this meeting.

There has been concern expressed by licensees that sufficient notice of Board meetings is not given. In addition to noticing the meetings in the Florida Administrative Weekly the Board office keeps an "interested parties list" of names and addresses of those who would like to receive mailouts regarding Board meetings and activities. If you would like to be on this list please make a written request to the Board office. Do not forget to include your current mailing address.

Board staff is also checking into posting meeting notices on the Internet. We will update you on that in the next newsletter.

Probable Cause Panel Meeting

The Probable Cause Panel reviewed 23 cases at their last

meeting. Ten cases were dismissed, three were continued, five were sent to experts for review and five administrative complaints were filed.

Citations and Notices of Non-Compliance

Notices of Noncompliance: In January 1997 Secretary Richard T. Farrell encouraged boards to revisit their rules on notices of noncompliance (NNCs) in order to ensure that minor offenders may be brought into compliance with the licensing laws with a minimum of interference, saving the most strenuous enforcement programs for serious offenders. A notice of noncompliance is an alternative to disciplinary action, in the nature of a warning which requires corrective action. It may only be used in response to minor violations which do not endanger the public health, safety and welfare and which do not demonstrate a serious inability to practice the profession. It may only be issued for an initial violation of an offense listed in the board's NNC rule. If corrective action is not initiated, disciplinary action will follow. Licensees should be aware of this new notice of noncompliance program. It is a common sense approach to minor technical violations, usually involving situations in which the licensee was unaware of the rule or unclear as to how to comply with it. Most boards have by now revisited their NNC rules and have amended them to reflect more offenses for which NNCs may be issued. The department ran a pilot implementation of the use of

NNCs in September. Full implementation statewide began on October 10, 1997.

Variance and Waiver Information

The 1996 Florida Legislature made substantial revisions to the law that governs the administrative procedures state agencies must follow in conducting public business. The changes will allow greater flexibility in the application of the many rules that affect you and your profession.

First, a brief primer. Laws enacted by the legislature also direct the government agency in question to adopt rules that allow it to carry out the law. By the time these rules are adopted, significant public input has been received from all the affected parties. Nonetheless, no set of written rules can conceive of all possible circumstances that could be encountered. Recognizing this, the 1996 legislature modified the Administrative Procedures Act (Chapter 120, Florida Statutes) to authorize state agencies or professional boards to grant variances and waivers of certain rules under certain conditions.

A person can request and receive an individual rule waiver or variance if that person can successfully demonstrate:

- That the essential underlying purpose of the law has been or will be satisfied through some other means; and

- That the application of the rule would create a "substantial hardship" or would violate "principles of fairness."

The legislature also specifically defined each of the terms:

"Substantial hardship" is defined as a demonstrated economic, technological, legal or other type of hardship to a person subject to the agency rule.

Violating "principles of fairness" is defined as a circumstance where a person is affected by the rule in a manner significantly different from others like himself who are subject to the same rule.

If the criteria are met, the agency must grant the request for the waiver or variance.

The legislature did not authorize any agency to grant waivers or variances of laws (Florida Statutes), only rules (Florida Administrative Code).

The legislature also defined specific petition requirements that must be followed to obtain the waiver or variance. To receive information on this, contact your board office by writing to 1940 North Monroe Street, Tallahassee, Florida 32399. You will receive all the necessary information by return mail.

61G17 Rule Changes

In the June newsletter the rule changes that the Board voted on were published. After rule

changes are voted on and published in the Florida Administrative Weekly the Joint Administrative Procedures Committee (JAPC) reviews the rules for compliance with statutes. JAPC had concerns with two of the proposed changes.

Rule 61G17-5.0031(4) stated that six credit hours earned in excess of twenty-four hours during the biennium may be carried over into the next biennium. This proposed change was in conflict with Chapter 472.018, F.S., which requires twenty-four hours of continuing education to be completed during the two years preceding the application for renewal. The Board agreed with JAPC and withdrew the rule change. As a result CEU's cannot be carried over from one biennium to the next.

Rule 61G17-2.003(5) prohibited surveyors and mappers from serving simultaneously as the surveyors and mappers in residence for more than one surveying and mapping business entity or office. JAPC questioned the specific statutory authority for this rule. As a result the Board withdrew the proposed change of adding the wording "business entity" and will be asking the legislature for statutory authority for this rule. The current rule which prohibits surveyors and mappers from serving simultaneously as the surveyor and mapper for more than one office is still in effect.

Rule Hearing 61G17-6.002

The Board of Professional Surveyors and Mappers hereby gives notice that it is making changes to the Rule 61G17-6.002, published in Vol. 23, No. 6, of the February 7, 1997, Florida Administrative Weekly. An additional Public Hearing was held on September 25, 1997, in Ft. Lauderdale, Florida. The Board met to discuss the rule with regard to input from the Public Hearing. As a result of this hearing, the Board decided to make additional changes to the proposed rule.

As changed, proposed Rule 61G17-6.002 would read as follows:

Rule 61G17-6.002 Definitions. As used in this chapter, the following terms have the following meanings:

- (1) - (9) No Change.
- (10) Surveying and

Mapping: a process of direct measurement and analysis specifically designed to document the existence, the identity, the location, and the dimension or size of natural or artificial features on land or in the air, space or water for the purposes of which include producing accurate and reliable maps suitable for visualization, if necessary, of such documentation. Surveying and mapping shall not be deemed to include exclude the following: all forms of secondary mapping and cartography such as enlarging, reducing, changing scale, digitizing, remapping from archival map sources and other graphic activities that do not involve making original

measurements of features on or near the earth's surface.

Examples of these excluded activities include, but are not limited to: appraisal parcel mapping, digitizing, applying cartographic warping functions, and scale and orientation changes. However, licensed surveyors and mappers must supervise primary spatial data capture by which means taking original measurements specifically designed to document the existence, the identity, the location, and the dimension or size of natural or artificial features on land or in the air, space or water.

(11) No Change.

The person to be contacted regarding the above changes is Ed Broyles, Executive Director, Board of Professional Surveyors and Mappers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750.

Licensure Status

| | |
|--|-------|
| Active Surveyors and Mappers | 2,541 |
| Inactive Surveyors and Mappers | 159 |
| Delinquent Surveyors and Mappers | 88 |
| Active Certificates of Authorization | 818 |
| Delinquent Certificates of Authorization | 250 |

Reminder: Licensing information can be obtained on the Internet at:

<http://www.state.fl.us/dbpr/>

If you have an LB or LS number you can input this information and be provided with the corresponding individual's name or the business entity.

Unlicensed Activity

The Board approved \$10,000 of unlicensed activity fees to be used regionally in combating unlicensed activity. If you are aware of unlicensed activity in your area please contact the Bureau of Investigative Services and report it. The only way to stop unlicensed activity is to take an active role in reporting it and working with the Bureau on what may be areas of unlicensed activity. As a refresher, read the definition of Surveying and Mapping in Florida Statute Chapter 472. If you see someone other than a licensed Surveyor and Mapper who appears to be practicing surveying and mapping as defined by statute, then report it. Do not stand by and allow unlicensed individuals to potentially harm the public through this activity.

Region I - Ft. Walton Beach
(904) 833-9160
Eddie James - Tom Bishop

Region II - Tallahassee
(904) 488-0736
Les Smith - Ken Morrison

Region III - Jacksonville
(904) 727-5590
Bill Carle

Region IV - Gainesville
(352) 955-2155
Richard Shumate - Tony Lopresto

Region V - Orlando
(407) 245-0750
Jim McGuirt - Juan Quiutana

Region VI - Tampa
(813) 744-6060
Henry Rivera

Region VII - Ft. Myers
(941) 338-2373
Mark Whitten

Region VIII - Palm Beach Gardens
(407) 624-6910
Sharon Thayer - Thad Clark

Region IX - Ft. Lauderdale
(954) 958-5550
Ralph Doney

Region X - Miami
(305) 377-7115
Bill Cates - Jay Wilson

For a map of each region and the addresses please contact the Board Office.

Application Committee

The Application Committee reviewed 54 applications for, amended and new certificates of authorizations (LB Numbers). Also reviewed were 59 applications for examination. Eight applications for examination were denied based on various reasons which included lack of sufficient months in responsible charge, failure to demonstrate surveying experience prior to October 1988 or failure to provide proof of high school graduation.

Continuing Education Committee

A continuing education audit was performed for the 1995-1997 licensing period. The audit was initiated within three months after the license renewal deadline. Approximately 155 surveyors and mappers were randomly selected. The licensees had 21 days from the receipt of the letter to respond to the audit. Of the 155 licensees audited, 150 were in compliance. The five licensees who were not in compliance with the audit were turned over to DBPR, Bureau of Investigative Services for possible disciplinary action.

Examination Committee

There were 176 examinees for the April 1997 exam. Of the 176 examinees only 46 took all four sections.

| <u>Exam Results</u> | <u>Passing</u> |
|--------------------------------|----------------|
| FI Jurisdictional Essay | 39.9% |
| FI Multiple Choice | 81.3% |
| NCEES Fundamentals | 46.8% |
| NCEES Principles and Practices | 40.9% |
| Overall Examination | 33.0% |

Probation Committee

The Probation Committee reviewed surveys for three probationers. All surveys were found to be in substantial compliance with minimum technical standards. The

probationers having met all the other terms of their final orders were released from probation.

There are currently five surveyors and mappers on active probation at this time. Generally the terms of probation are a fine, suspension, with suspension stayed, attendance at an minimum technical standards course, and review of six surveys by the Probation Committee. If the first six surveys are found to be in substantial compliance and all other terms of the final order are met then the probationer is released. If the surveys are not in substantial compliance then another six surveys must be submitted for review.

The purpose of the survey review as part of the probation process is to bring a level of awareness to the probationer that surveys must meet minimum technical standards.

Laws and Rules of the Professions

While the Board makes every effort to keep licensees informed of changing laws and rules it is the responsibility of each licensee to keep up with these changes. You may obtain a current copy of the laws and rules from Board office by calling and requesting a copy.

Address Change Form

Attached to this newsletter is an address change form. Chapter 455.275(1), F.S., states, "Each licensee of the department is

solely responsible for notifying the department in writing of the licensee's current mailing address and place of practice, as defined by rule of the board or the department when there is no board. A licensee's failure to notify the department of a change of address constitutes a violation of this section, and the licensee may be disciplined by the board or the department when there is no board."

Rule 61G17-9.0045 - Notice of Noncompliance.

The offenses enumerated in this rule shall be the subject of a notice of noncompliance before disciplinary action is taken: Rule 61G17-9.0045(2), F.A.C., states, "A business entity's first time failure to notify the Board within one (1) month of any changes in the business entity's location of offices, its licensed surveyor and mapper in residence, or the names of its principal, along with proof to demonstrate the change in principal."

Addendum to Roster of Licensees

Attached is an alpha/numerical licensure list from the April 1997 exam.

Disciplinary Action Report

The Board at its September 25 & 26, 1997, meeting has taken disciplinary action concerning the licensees listed below. Eight cases were presented which consisted of five

stipulation hearings, one informal hearing, one default hearing and one voluntary relinquishment.

Although every effort is made to ensure the information is correct, before making any specific decision based upon this information, you should check with the Board office to assure accuracy. The listing may not reflect a change occurring near or following the publication date. Further, the listing does not reflect pending appeals or requests for rehearings. Each order is listed as follows, with the name, the DBPR case number, the license number, the violated section of the Florida Statute and the penalty imposed by the Board.

The following action is reported on each:

Samuel M. Fischbein

Case #93-20286, LS 0003587

Charge: Violated Section 472.033(1)(h), F.S., by violating Rule 21HH-6, 21HH-6.003(2), (7), (17), F.A.C. and 21HH-6.004(3), F.A.C. (MTS violations)

Penalty: The Board accepted the settlement stipulation (with modifications) for a reprimand, \$1000 fine, probation, MTS course and survey review.

Donald P. Ramsay

Case # 94-00111, LS0001208

Charge: Violated Section 472.033(1)(g)(h), F.S., by violating Rule 21HH-6, 21HH-6.003(4), (7), (10), (12), (14), (18), and (19)(d), F.A.C.

(MTS violations) **Penalty:** The Board accepted the settlement stipulation (with modifications) for a reprimand, \$1000 fine, probation, MTS course and survey review.

Frederick R. Pertler

Case #94-03077, LS 0002564

Charge: Violated Section 472.033(1)(h), F.S., by violating Rule 21HH-6.003, F.A.C. (MTS violations) **Penalty:** The Board accepted the settlement stipulation for a reprimand.

Michael G. Heath

Case #96-09687, LS 0004418

Charge: Violated Section 472.033(1)(h), F.S., by violating Board Rule 61G17-2.003(5), F.A.C. (Certificate of Authorization violation) **Penalty:** The Board accepted the settlement stipulation for a \$400 fine.

James Clyde Jackson, Jr.

Case #96-09687, LS 0004356

Charge: Violated Section 472.033(1)(h), F.S. (Failure to comply with a final order of the Board) **Penalty:** The Board accepted the settlement stipulation for a reprimand and a \$250 fine.

Donald A. Craft

Case #95-14232, LS 0001699

Charge: Violated Section 472.033(1)(h), F.S. (Failure to comply with a final order of the Board) **Penalty:** Revocation

Stephen Cody Sutherland

Case #96-16284, LS 0002993

Charge: Violated Section 472.031(h), F.S. (Failure to comply with a final order of the Board) **Penalty:** Default hearing where the Board revoked the license and imposed a \$2500 fine.

Carr Smith and Associates, Inc.

Case #93-18423, LB 000503

Charge: Violated Section 472.021(4), F.S., violated

Section 472.033(1)(h), F.S., by violating Board Rule 61G17-2.003(3)(a), F.A.C. (Licensed surveyor no longer employed with business and failure to update application) **Penalty:** The Board accepted the voluntary relinquishment of the license.

ADDENDUM TO ROSTER FOR LICENSEES (APRIL 1997 EXAM)

| | |
|-------------------------------------|----------------------------------|
| LS 5694 Adcock, Jon Bretton | LS 5736 Rayl, Alan Lee |
| LS 5695 Augusto, Eric Brian | LS 5737 Reed, Jack Daniel Jr |
| LS 5696 Banta, Eric Eugene | LS 5738 Reid, Norman |
| LS 5697 Bazemore, Gary Wendall | LS 5739 Rhodes, John Scott |
| LS 5698 Bispott, Leslie C | LS 5740 Rice, Richard Michael |
| LS 5699 Blanton, Michael W | LS 5741 Rudd, Eddy Angus |
| LS 5700 Brown, Richard Dee | LS 5742 Rutkosky, Daniel John |
| LS 5701 Burchett, James Beverly | LS 5743 Shore, Scott Matthew |
| LS 5702 Carter, Roger Glen | LS 5744 Smith, Kenneth W |
| LS 5703 Chambers, James Benjamin Jr | LS 5745 Sprouse, Andrew M |
| LS 5704 Cook, Michael Olyn | LS 5746 Stiffey, William Russell |
| LS 5705 Del Rio, David A | LS 5747 Sweet, Jay L |
| LS 5706 Drury, Thomas D Jr | LS 5748 Weinert, Jeffrey Hans |
| LS 5707 Elam, Douglas James | LS 5749 Wilcox, Dan Allen Jr |
| LS 5708 Engle, Paul Dean | LS 5750 Wood, Brett Currie |
| LS 5709 Gabriele, Dennis J | LS 5751 Zoltek, Michael John |
| LS 5710 Gates, Leland Clayton | LS 5752 Cavanaugh, Patrick Alan |
| LS 5711 Gillingham, Daniel Dee | |
| LS 5712 Glass, Alan Franklin | |
| LS 5713 Glass, Kenneth T | |
| LS 5714 Going, J Patrick | |
| LS 5715 Hand, Robert L | |
| LS 5716 Hartley, Jeff L | |
| LS 5717 Hazelwood, Michael Arthur | |
| LS 5718 Hernandez, Carlos A | |
| LS 5719 Iturey, Lincoln Diaz | |
| LS 5720 Jenkins, Michael E | |
| LS 5721 Keri, Jay Alan | |
| LS 5722 Krawetz, Peter F | |
| LS 5723 Lawson, Michael Ray | |
| LS 5724 Lawson, William Macon | |
| LS 5725 Leavy, Richard L | |
| LS 5726 Leitz, Kenneth Edward | |
| LS 5727 Lischalk, Mark S | |
| LS 5728 Luethje, David E | |
| LS 5729 Lyon, Walter W Jr | |
| LS 5730 McNeely, James Michael | |
| LS 5731 Morgan, Alan W | |
| LS 5732 Peret, Nathan E | |
| LS 5733 Phair, Ruth Elaine | |
| LS 5734 Pinnell, Jason H | |
| LS 5735 Platt, William C | |

Chapter 455.275(1), Florida Statute requires licensees, active and inactive, to keep the department informed of their current mailing address. The form below has been prepared to assist licensees in keeping us informed of address changes. If you change your address, please complete and clip out this form and return it to the Department of Business and Professional Regulation, Board of Professional Surveyors and Mappers, 1940 North Monroe Street, Tallahassee, Florida 32399-0756.

| | |
|---|-----------------------|
| Date: _____ | License Number: _____ |
| Name of Licensee: _____ | |
| Old Address: _____ | New Address: _____ |
| _____ | _____ |
| _____ | _____ |
| Phone: (_____) _____ | |
| Board of Professional Surveyors and Mappers (KEEP THIS FORM HANDY) | |

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS
1940 NORTH MONROE STREET
TALLAHASSEE, FLORIDA 32399-0756

| |
|--|
| PAID Tallahassee, FL 32301 Permit No. 323 BULK RATE |
|--|