



PDHonline Course R407W (4 PDH)

**Laws, Rules and Ethics for Engineers,
Architects and Land Surveyors (Live
Webinar)**

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PDH Online | PDH Center

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An Approved Continuing Education Provider

Board Laws & Rules and Professional Ethics

Course Outline

To perform engineering and/or land surveying service in the state of New York, one must get familiar with the New York Board Laws and Rules pertinent to the professional service. This course helps a licensee review Article 145 of Education Law, Articles 15 and 15-A of Business Corporation Law, and Articles 12 and 13 of Limited Liability Company Law. Part 29 Unprofessional Conduct - Rules of the Board of Regents and Part 68 Engineering and Land Surveying - Commissioner's Regulations are also included along with some of the frequently asked questions. In addition, brief case summaries are presented for recent violations and the disciplinary actions taken by the Board. This course includes a multiple-choice quiz at the end, which is designed to enhance the understanding of course materials.



Learning Objective

At the conclusion of this course, the student will:

- Be familiar with the New York Board Laws and Rules;
- Be aware of the unprofessional conducts;
- Understand the range of penalties for professional misconducts;
- Be familiar with the mandatory continuing education requirements;
- Understand the importance of adequate recordkeeping;
- Know how to properly sign and seal design documents;
- Be familiar with the roles and responsibilities of a professional engineer and land surveyor;
- Be familiar with different forms of professional business entities;
- Understand the basic requirements to form a PC, PLLC or LLP in New York state; and
- Have a better understanding of the requirements and other regulatory provisions for practicing engineering and land surveying in the state of New York.

Background

In 2003, the New York State Board for Engineering and Land Surveying adopted Mandatory Continuing Education Program, which requires each licensee to complete thirty-six hours of professional development (36 PDH units) during each license renewal triennium. Effective January 1, 2004 licensed professional engineers and land surveyors renewing registration of a license on or after January 1, 2005 will be required to complete continuing education requirements on a prorated basis. A Licensee is required to take continuing education courses and/or participate in continuing education activities which contribute to professional practice and which meet the standards prescribed by Regulations of the Commissioner.

Course Content

A. Laws & Rules Related to Engineering Practice

Besides meeting specific requirements, such as education, experience and examination, an engineer/land surveyor must get familiar with the state laws and rules in order to practice engineering/land surveying in any state. While the laws and rules do vary from state to state, the basic requirements for the qualifications and the professional conduct are very similar throughout the United States.

Many state boards periodically disclose in their newsletters the disciplinary actions taken by the boards against the licensees who violated the Board Rules. The most common types of violations are:

1. Performed engineering or land surveying service as an employee or officer of a company without obtaining a certificate of authorization.
2. Performed services outside his/her area of competence.
3. Practiced engineering without being licensed in the state of the project.
4. Practiced or offered to practice engineering while not properly licensed.
5. Failed to properly sign, seal and date documents.
6. Affixed his/her seal to work not done under his/her direct supervision or responsible charge and without preparing his/her own evaluations and written report.
7. Affixed his/her seal to inadequate design documents, failing to protect the public.



Other types of violations include:

1. Produced a deficient, substandard or inaccurate report, failing to protect the public.
2. Contracted with non-licensed individual to provide certain professional services.
3. Failed to avoid conflicts of interests.
4. Committed a crime.

To avoid the above violations, it is highly recommended for all licensees to periodically review the Education Law Article 145, Regulations of the Commissioner - Part 68 Engineering and Land Surveying, and Rules of the Board of Regents - Part 29 Unprofessional Conduct. As a professional engineer/land surveyor, the licensee shall at all times recognize the primary obligation to protect the safety, health, property and welfare of the public. If a licensee's engineering judgment is overruled under circumstances where the safety, health or welfare of the public is endangered, he/she shall inform the proper authorities and his/her employer of the situation as may be appropriate.

B. Laws & Rules Related to Professional Service

Some professionals practice their profession as sole proprietors (individual licensed practitioners). Others practice in some sort of corporate or other business entity structure. To practice engineering or land surveying in the state of New York in a form of business entity, a licensed engineer or land surveyor may set up a professional service corporation (PC), a professional service limited liability company (PLLC) or a registered limited liability partnership (LLP).

Engineering and land surveying professions fall under jurisdiction of the State Education Department in the state of New York. To set up an engineering or land surveying business entity, one must

1. Submit appropriate corporate formation documents to the New York State Education Department.
2. Receive Certificate of Authority from the New York State Education Department.
3. File New York State Education Department Certificate of Authority along with all corporate formation documents with the Department of State.
4. Request a certified copy of the filing from the Department of State and pay the fee required by the Department of State.
5. Submit the certified copy of the filing from the Department of State to the New York State Education Department.

A single professional business entity may practice engineering, architecture, landscape architecture and land surveying in the state of New York provided that the company includes an "owner" (i.e., member, manager, officer, shareholder, partner) licensed in each of the professions in which the company will offer services.

Not all business structures may legally provide professional services such as engineering or land surveying in the state of New York. Generally, licensed professionals may not set up a general business corporation (GBC) to provide professional services.

A GBC may employ licensed professionals to provide in-house or on-site services to its own properties. For example, McDonald's may employ a licensed professional engineer to provide services to company's properties. However, McDonald's may not set up a business to provide engineering service to the public.

C. Content Organization

To help you understand the Board Laws and Rules effectively, the content of this course has been divided into the following nine parts (LLP Law is not covered in this course):

1. Education Law Article 145 - Professional Engineering and Land Surveying
2. Regulations of the Commissioner - Part 68 Engineering and Land Surveying
3. Rules of the Board of Regents - Part 29 Unprofessional Conduct
4. Case Studies – Violations and Disciplinary Actions
5. Business Corporation Law Article 15 - Professional Service Corporations
6. Business Corporation Law Article 15-A - Foreign Professional Service Corporations
7. Limited Liability Company Law Article 12 - Professional Service Limited Liability Companies
8. Limited Liability Company Law Article 13 - Foreign Professional Service Limited Liability Companies
9. Frequently Asked Questions

1. Education Law Article 145

The following is excerpted from [Article 145 of New York Education Law](#):

Professional Engineering and Land Surveying

§7200. Introduction

§7201. Definition of practice of engineering.

§7202. Practice of engineering and use of title "professional engineer".

§7203. Definition of practice of land surveying.

§7204. Practice of land surveying and use of title "land surveyor".

§7205. State board for engineering and land surveying.

§7206. Requirements for a license as a professional engineer.

§7206-a. Requirements for a license as a professional land surveyor.

§7207. Limited permits.

§7208. Exempt persons.

§7209. Special provisions.

§7210. Certificates of authorization.

§7211. Mandatory continuing education for professional engineers.

§7212. Mandatory continuing education for land surveyors.

§7200. Introduction.

This article applies to the professions of engineering and land surveying. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§7201. Definition of practice of engineering.

The practice of the profession of engineering is defined as performing professional service such as consultation, investigation, evaluation, planning, design or supervision of construction or operation in connection with any utilities, structures, buildings, machines, equipment, processes, works, or projects wherein the safeguarding of life, health and property is concerned, when such service or work requires the application of engineering principles and data.

§7202. Practice of engineering and use of title "professional engineer".

Only a person licensed or otherwise authorized under this article shall practice engineering or use the title "professional engineer".

§7203. Definition of practice of land surveying.

The practice of the profession of land surveying is defined as practicing that branch of the engineering profession and applied mathematics which includes the measuring and plotting of the dimensions and areas of any portion of the earth, including all naturally placed and man- or machine-made structures and objects thereon, the lengths and directions of boundary lines, the contour of the surface and the application of rules and regulations in accordance with local

requirements incidental to subdivisions for the correct determination, description, conveying and recording thereof or for the establishment or reestablishment thereof.

§7204. Practice of land surveying and use of title "land surveyor".

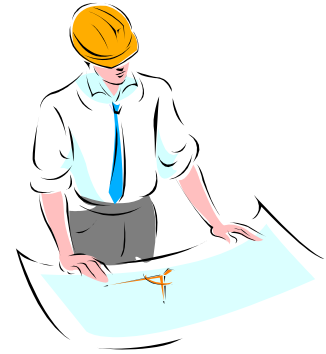
Only a person licensed or otherwise authorized under this article shall practice land surveying or use the title "land surveyor".

§7205. State board for engineering and land surveying.

A state board for engineering and land surveying shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than seven professional engineers and not less than two land surveyors licensed in this state. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner and shall be a professional engineer or land surveyor licensed in this state.

§7206. Requirements for a license as a professional engineer.

1. To qualify for a license as a professional engineer an applicant shall fulfill the following requirements:
 1. Application: file an application with the department;
 2. Education: have received an education, including a bachelor's or higher degree based on a program in engineering, in accordance with the commissioner's regulations;
 3. Experience: have at least four years in work satisfactory to the board, provided that the board may accept study beyond the bachelor's degree in partial fulfillment of this requirement;
 4. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;
 5. Age: be at least twenty-one years of age;
 6. Citizenship or immigration status: be a United States citizen or an alien lawfully admitted for permanent residence in the United States;
 7. Character: be of good moral character as determined by the department; and
 8. Fees: pay a fee of two hundred twenty dollars to the department for admission to a department conducted examination and for an initial license, a fee of one hundred fifteen dollars for each reexamination, a fee of one hundred thirty-five dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of two hundred ten dollars for each triennial registration period.
2. In lieu of the degree and experience requirements specified in subparagraphs (2) and (3) of subdivision one of this section, twelve years of practical experience in work satisfactory to the board may be accepted, provided that each full year of college study in



engineering satisfactory to the department may at the discretion of the board be accepted in lieu of two years of the required twelve years of experience.

3. For an identification card as an "intern engineer", an applicant shall fulfill the requirements of subdivision one of this section, except those in subparagraphs (3) and (5), provided that admission to the examination may be given when the applicant is within twenty credits of the completion of the requirements for the bachelor's or higher degree as prescribed in subparagraph (2) of subdivision one, or has completed the practical experience requirement of subdivision two of this section. The fee for examination and identification card as an "intern engineer" shall be seventy dollars and the fee for each reexamination shall be seventy dollars.
4. On recommendation of the board, the department may waive specific requirements, except as to age, character, education and citizenship, in the case of applicants who are possessed of established and recognized standing in the engineering profession and who have practiced lawfully for more than fifteen years.

§7206-a. Requirements for a license as a professional land surveyor.

1. To qualify for a license as a professional land surveyor, an applicant shall fulfill the following requirements:
 1. Application: file an application with the department;
 2. Education: have received an education, including a bachelor's or higher degree based on a program in land surveying, in accordance with the commissioner's regulations;
 3. Experience: (a) If the applicant has a bachelor's or higher degree, have at least four years in work satisfactory to the board, provided that the board may accept study beyond the bachelor's degree in partial fulfillment of this requirement; or (b) If the applicant has an associate's degree, have at least six years in work satisfactory to the board provided that the board may accept study beyond the associate's degree in partial fulfillment of this requirement;
 4. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;
 5. Age: be at least twenty-one years of age;
 6. Citizenship or immigration status: be a United States citizen or an alien lawfully admitted for permanent residence in the United States;
 7. Character: be of good moral character as determined by the department; and
 8. Fees: pay a fee of two hundred twenty dollars to the department for admission to a department conducted examination and for an initial license, a fee of one hundred fifteen dollars for each reexamination, a fee of one hundred thirty-five dollars for an initial license for persons not requiring admission to department conducted examination, and a fee of two hundred ten dollars for each triennial registration period.
2. In lieu of the degree and experience requirements specified in subparagraphs (2) and (3) of subdivision one of this section, eight years of practical experience in work satisfactory to the board may be accepted, provided that each full year of college study in engineering or land surveying satisfactory to the department may at the discretion of the board be accepted in lieu of one year of the required eight years of experience.

3. For an identification card as an "intern land surveyor", an applicant shall fulfill the requirements of subdivision one of this section, except those in subparagraphs (3) and (5), provided that admission to the examination may be given when the applicant is within twenty credits of the completion of the requirements for the bachelor's or higher degree as prescribed in subparagraph (2) of subdivision one, or has completed the practical experience requirement of subdivision two of this section. The fee for examination and identification card as an "intern land surveyor" shall be seventy dollars and the fee for each reexamination shall be seventy dollars.

§7207. Limited permits.

1. On recommendation of the board, the department may issue a limited permit to practice engineering to an engineer not a resident of this state and having no established place of practice in this state who is legally qualified to practice as such in his own country or state and who submits satisfactory evidence of established and recognized professional standing in his own country or state and who submits satisfactory certifications as to character and qualifications from at least two licensed professional engineers, one of whom shall be a resident of this state. Such limited permit shall be issued solely in connection with the specific project for which such limited permit is granted.
2. A limited permit to practice as a professional engineer or land surveyor in this state may be issued by the department to a person not a resident in this state and having no established place of practice in this state, when such practice does not aggregate more than thirty days in any calendar year, provided that such person is legally qualified to practice in his own state or country. The limited permit authorizing such right to practice in this state shall specify the dates within the calendar year when such right may be exercised.
3. Fees. The fee for each limited permit shall be one hundred five dollars.

§7208. Exempt persons.

This article shall not be construed to affect or prevent the following, provided that no title, sign, card or device shall be used in such manner as to tend to convey the impression that the person rendering such service is a professional engineer or a land surveyor licensed in this state or is practicing engineering or land surveying:

- a. Offering to practice in this state as a professional engineer or land surveyor by any person not a resident of, and having no established place of practice in this state, provided that such person is legally qualified for such practice in his own state or country;
- b. Practice as a professional engineer or land surveyor in this state by any person not a resident, or having no established place of practice in this state, or any person resident in this state but who has arrived in this state within six months, provided, however, such a person shall have filed an application for license as a professional engineer or land surveyor, and is legally qualified for such practice in the state or country in which he resides or has his place of practice or in which he had his previous residence or place of practice, such exemption continuing for only such reasonable time as the board requires to grant or deny the application for license, and a person intending to practice under this subdivision shall so state on the application;

- c. Practice of engineering or land surveying, by an employee of a county or town, in the construction, improvement or maintenance of a county road or town highway, or by an employee of a county, city, town or village, in the construction, improvement or maintenance of any public work wherein the contemplated expenditure for the completed project does not exceed five thousand dollars;
- d. Operation or maintenance of steam, power, or refrigeration plants by legally authorized persons not licensed under this article or persons engaged or employed as an engine man, operator or driver of any engine or of any mechanical, electrical, chemical or other device or machine;
- e. Making of surveys by professional engineers, except that the determination of real property boundaries may be done only by a licensed land surveyor;
- f. Employment or supervision of interns or other persons qualified by education or experience by professional engineers or land surveyors as assistants in the performance of engineering or land surveying, or as consultants or employees in special fields related to but not uniquely engineering or land surveying, provided that the engineers or land surveyors employing or supervising such persons shall not be relieved of any responsibility whatsoever by delegation to such persons, and provided further that such persons who have attained the bachelor's level of studies in accordance with the requirements of section seventy-two hundred six of this title may be employed as junior or assistant engineers or junior or assistant land surveyors, or similar titles, to act under the general direction of a professional engineer or land surveyor, or in work not covered by this article;
- g. Employment of any person as a junior or assistant engineer or junior or assistant land surveyor in the civil service of the state or its political subdivisions in a position the title of which was approved and in use as of July first, nineteen hundred seventy-one, provided such person acts under the general direction of a licensed professional engineer or land surveyor;
- h. Execution by a contractor or by others of work designed by a professional engineer, or land surveyor, or the superintendence of such work as a superintendent, foreman, or inspector;
- i. The practice of architecture by an architect licensed in this state, or the practice of landscape architecture by a landscape architect licensed in this state, provided that no such architect or landscape architect shall use the designation "engineer" or "engineering" unless licensed as a professional engineer in this state;
- j. The practice of engineering or land surveying or having the title "engineer" or "surveyor" solely as an officer or an employee of a corporation engaged in interstate commerce;
- k. The practice of engineering by a manufacturing corporation or by employees of such corporation, or use of the title "engineer" by such employees, in connection with or incidental to goods produced by, or sold by, or nonengineering services rendered by, such corporation or its manufacturing affiliates;
- l. The practice of engineering or land surveying, or using the title "engineer" or "surveyor" exclusively as an officer or employee of a public service corporation by rendering to such corporation such services in connection with its lines and property which are subject to supervision with respect to the safety and security thereof by the public service commission of this state, the interstate commerce commission or other federal regulatory body and so long as such person is thus actually and exclusively employed and no longer;
- m. The making of land surveys by a professional engineer where such land surveys are essential to engineering projects, provided he was licensed as a professional engineer in

this state on or before the first day of January in the year in which this act shall become a law and files evidence satisfactory to the board on or before the first day of July in the year next succeeding the year in which this act shall have become law, that he is competent and experienced in such land surveys;

- n. The design by a land surveyor of roads, drainage, water supply or sanitary sewerage facilities of a minor nature in connection with subdivisions and the extension and inspection thereof, but not including sewage disposal or treatment plants, lift stations, pumping stations, commercial buildings or bridges, provided the surveyor was licensed as a land surveyor in this state on or before the first day of January in the year in which this act shall have become a law and files evidence satisfactory to the board on or before the first day of July in the year next succeeding the year in which this act shall have become a law, attesting that he is competent and experienced in the engineering required for design of such facilities appurtenant to subdivisions; or
- o. Using the title "marine operating engineer", "stationary engineer", "port of customs surveyor", or "ship surveyor".
- p. Contractors or builders from engaging in construction management and administration of construction contracts.

§7209. Special provisions.

- 1. Every professional engineer and every land surveyor shall have a seal, approved by the board, which shall contain the name of the professional engineer and the words "Licensed Professional Engineer" or the name of the land surveyor and the words "Licensed Land Surveyor" and such other words or figures as the board may deem necessary. All plans, specifications, plats and reports relating to the construction or alteration of buildings or structures prepared by such professional engineer and all plans, specifications, plats and reports prepared by such land surveyor or by a full-time or part-time subordinate under his supervision, shall be stamped with such seal and shall also be signed, on the original with the personal signature of such professional engineer or land surveyor when filed with public officials. No official of this state, or of any city, county, town or village therein, charged with the enforcement of laws, ordinances or regulations shall accept or approve any plans or specifications that are not stamped:
 - a. With the seal of an architect or professional engineer or land surveyor licensed in this state and bearing the authorized facsimile of the signature of such architect or professional engineer or land surveyor, or
 - b. With the official seal and authorized facsimile of the signature of a professional engineer or land surveyor not a resident of this state and having no established business in this state, but who is legally qualified to practice as such in his own state or country, provided that such person may lawfully practice as such in this state, and provided further that the plans or specifications are accompanied by and have attached thereto written authorization issued by the department certifying to such right to practice at such time.
- 2. To all plans, specifications, plats and reports to which the seal of a professional engineer or land surveyor has been applied, there shall also be applied a stamp with appropriate wording warning that it is a violation of this law for any person, unless he is acting under the direction of a licensed professional engineer or land surveyor, to alter an item in any

way. If an item bearing the seal of an engineer or land surveyor is altered, the altering engineer or land surveyor shall affix to the item his seal and the notation "altered by" followed by his signature and the date of such alteration, and a specific description of the alteration.

3. No county, city, town or village or other political subdivision of this state shall engage in the construction or maintenance of any public work involving engineering or land surveying for which plans, specifications and estimates have not been made by, and the construction and maintenance supervised by, a professional engineer or land surveyor; provided that this section shall not apply to the construction, improvement or maintenance of county roads or town highways, nor to any other public works wherein the contemplated expenditure for the completed project does not exceed five thousand dollars. This section shall not be construed as affecting or preventing any county, city, town or village or other political subdivision of this state from engaging an architect licensed in this state for the preparation of plans, specifications and estimates for and the supervision of construction or maintenance of public works.
4. Engineers, land surveyors, architects, and landscape architects may join in the formation of a joint enterprise, or a partnership or a professional service corporation or may form any desired combination of such professions and may use in the name of such corporation the title of any of the professions which will be practiced. After the name of each member his profession shall be indicated.
5. A firm name may be continued by employees having at least fifteen years of continuous service if the retired members and legal representatives of deceased members consent to such continuance.
6. It shall be lawful for a corporation organized and existing under the laws of the state of New York which on the fifteenth day of April, nineteen hundred thirty-five and continuously thereafter, was lawfully practicing engineering or land surveying in New York state, to continue such practice provided that the chief executive officer shall be a professional engineer licensed under this article, if practicing engineering, or a land surveyor licensed under this article, if practicing land surveying, and provided further that the person or persons carrying on the actual practice of engineering or surveying on behalf of, or designated as "engineer" or "surveyor", with or without qualifying or characterizing word, by such corporation shall be authorized to practice engineering or land surveying as provided in this article. It shall be lawful for a corporation which, on account of or as a result of requirements, restrictions or provisions of federal law, was organized subsequent to April fifteenth, nineteen hundred thirty-five for the purpose of taking over an existing engineering organization established prior to such time and which has taken over such organization and continued its engineering activities, provided that the chief executive officer of such corporation shall be a professional engineer licensed under this article and provided further, that the person or persons carrying on the actual practice of engineering on behalf of, or designated as "engineer", with or without qualifying or characterizing word, by such corporation, shall be authorized to practice engineering as provided in this article. No such corporation shall change its name or sell its franchise or transfer its corporate rights, directly or indirectly to any person, firm or corporation without the consent of the department. Each such corporation shall obtain a triennial registration on payment of a fee of fifty dollars.
7. Nothing in this article shall be construed to apply:

- a. To the preparation or execution of designs, drawings, plans or specifications for the construction or installation of machinery, or apparatus constructed or installed by the corporation preparing such designs, drawings, plans or specifications if the supervision of the preparation of any such designs, drawings, plans or specifications, construction or installation is done under the general direction of a professional engineer or land surveyor licensed under this article; or
 - b. To alterations to any building or structure costing ten thousand dollars or less which do not involve changes affecting the structural safety or public safety thereof nor to farm buildings, including barns, sheds, poultry houses and other buildings used directly and solely for agricultural purposes; nor to residence buildings of gross floor area of fifteen hundred square feet or less, not including garages, carports, porches, cellars, or uninhabitable basements or attics.
8. Nothing in this article shall prohibit a corporation organized and existing prior to the fifteenth day of April, nineteen hundred thirty-five under the laws of any state other than the state of New York, the name of which includes the word "engineers", from obtaining a certificate of authority to do business in the state of New York, provided that the business proposed to be done by such corporation within this state, as set forth in the statement and designation provided for by section thirteen hundred four of the business corporation law, shall not include the practice within this state of engineering or land surveying.

§7210. Certificates of authorization.

1. Domestic or foreign professional service corporations, professional service limited liability companies, foreign professional service limited liability companies, registered limited liability partnerships, New York registered foreign limited liability partnerships, partnerships and joint enterprises specified in subdivision four of section seventy-two hundred nine of this article, provided each of the foregoing entities is authorized to provide professional engineering or land surveying services and general business corporations authorized to provide professional engineering or land surveying services pursuant to subdivision six of section seventy-two hundred nine of this article may offer to provide or provide professional engineering or land surveying services only after obtaining a certificate of authorization from the department. Except as otherwise authorized by statute, rule or regulation, other business entities are not authorized to offer or provide professional engineering or land surveying services and may not obtain certificates of authorization provided that nothing contained herein shall prohibit an individual who is licensed to practice professional engineering or land surveying under this article from obtaining a certificate of authorization upon application and payment of the appropriate fees provided for under this section.
2. Upon application a certificate of authorization shall be issued by the department to all individuals, corporations, limited liability companies, limited liability partnerships, partnerships and joint enterprises specified in subdivision one of this section and which are authorized to provide professional engineering or land surveying services and pay the appropriate fee.



3. A "certificate of authorization" shall authorize such individual, corporation, limited liability company, limited liability partnership, partnership or joint enterprise to provide professional engineering or land surveying services for three years from the date of issuance subject to, as otherwise prescribed by law, the supervision of the regents of the university of the state of New York including the power to discipline and impose penalties in the same manner and to the same extent as is provided with respect to individuals and their licenses and registration pursuant to this title.
4. An application, triennial renewal, delinquent or replacement certificate fee must accompany the "certificate of authorization" request in the amount shown below. A business entity that fails to renew its certificate of authorization before the expiration date shall be required to pay the additional delinquent fee for late filing of ten dollars for each full month it has practiced after the expiration of its certificate of authorization.
 - Application fee and first triennial certificate of authorization - \$125.00;
 - Triennial renewal fee - \$75.00;
 - Delinquent fee - \$10.00 per month of practice without a certificate of authorization;
 - Replacement certificate fee - \$10.00.

All checks shall be made payable to the state department of education, state of New York and submitted to the department. If a business enterprise is not eligible to receive a "certificate of authorization", the fee will be retained to cover the costs of processing. Triennial renewal fees for all "certificates of authorization" are due and payable on or before the filing date of each triennial registration period.

5. The department shall compile a registry of the holders of all certificates of authorization. Such registry shall include the name and address of all registrants, state whether a certificate of authorization has been issued, denied, suspended, or revoked, and disclose whether the certificate is current or expired. Access to the registry shall be made available electronically without cost. A record search of the registry may be obtained in person or by mail provided that a fee of ten dollars shall be paid for each putative registrant.

§7211. Mandatory continuing education for professional engineers.

1.
 - a. Each licensed professional engineer required under this article to register triennially with the department to practice in this state shall comply with provisions of the mandatory continuing education requirements prescribed in subdivision two of this section except as set forth in paragraphs (b) and (c) of this subdivision. Professional engineers who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements, and have been issued a registration certificate, except that a professional engineer may practice without having met such requirements if he or she is issued a conditional registration certificate pursuant to subdivision three of this section.
 - b. Professional engineers shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accordance with the intent of this section, adjustment to the mandatory continuing education requirement may be granted by the department

- for reasons of health certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.
- c. A licensed professional engineer not engaged in practice as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of professional engineering during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory education requirements as shall be prescribed by regulations of the commissioner.
 - d. Professional engineers directly employed on a full time basis by the state of New York, its agencies, public authorities, public benefit corporations or local governmental units prior to January first, two thousand four and who are represented by a collective bargaining unit, at all times when so employed shall be deemed to have satisfied the continuing education requirements of this section, provided however that any such licensees who thereafter leave such employment and enter the practice of professional engineering in other capacities in New York, or otherwise engage in such practice, shall satisfy the requirements of this section in such manner as shall be prescribed by regulations of the commissioner.
2. During each triennial registration period an applicant for registration shall complete a minimum of thirty-six hours of acceptable continuing education, as specified in subdivision four of this section, provided that no more than eighteen hours of such continuing education may consist of non-course activities. Any professional engineer whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, two thousand five, shall complete continuing education hours on a prorated basis at the rate of one hour per month for the period beginning January first, two thousand four up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section. With the exception of continuing education hours taken during the registration period immediately preceding the effective date of this section, continuing education hours taken during one triennium may not be transferred to a subsequent triennium.
 3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and complete any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices professional engineering without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.
 4. As used in subdivision two of this section, "acceptable continuing education" shall mean courses of learning and educational activities which contribute to professional practice in professional engineering and which meet the standards prescribed by regulations of the

commissioner. The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing education courses in specific subjects.

5. Professional engineers shall maintain adequate documentation of completion of acceptable continuing education and educational activities and shall provide such documentation at the request of the department.
6. The mandatory continuing education fee shall be forty-five dollars, shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section seventy-two hundred six of this article.

***§7212. Mandatory continuing education for land surveyors.**

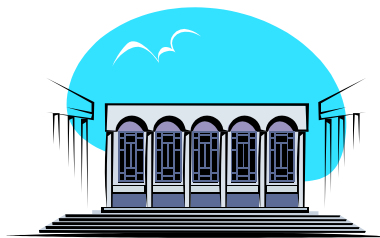
1.
 - a. Each licensed land surveyor required under this article to register triennially with the department to practice in the state shall comply with the provisions of the mandatory continuing education requirements prescribed in subdivision two of this section except as set forth in paragraphs (b) and (c) of this subdivision. Land surveyors who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements, and have been issued a registration certificate, except that a land surveyor may practice without having met such requirements if he or she is issued a conditional registration certificate pursuant to subdivision three of this section.
 - b. In accord with the intent of this section, adjustment to the mandatory continuing education requirement may be granted by the department for reasons of health certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.
 - c. A licensed land surveyor not engaged in practice as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of land surveying during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory education requirements as shall be prescribed by regulations of the commissioner.
 - d. Licensed land surveyors shall be exempt from the mandatory continuing education required by this section for the triennial registration period during which they are first licensed.
2. During each triennial registration period an applicant for registration shall complete a minimum of twenty-four hours of acceptable continuing education, as specified in subdivision four of this section, provided, however, that a minimum of sixteen hours of such continuing education shall consist of courses in land surveying and related subjects, provided that no more than eight of said twenty-four hours shall consist of self-study courses. Any land surveyor whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, two thousand five, shall complete continuing education hours on a prorated basis at the rate of one hour per month for the period beginning January first, two thousand four

up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section. With the exception of continuing education hours taken during the registration period immediately preceding the effective date of this section, continuing education hours taken during one triennium may not be transferred to a subsequent triennium.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and complete any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices land surveying without such registration, shall be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.
4. As used in subdivision two of this section, "acceptable continuing education" shall mean courses of learning and other activities which contribute to the profession or practice of land surveying and which meet the regulations of the commissioner. The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing education courses in specific subjects. Such courses of learning must be taken from a sponsor approved by the department, pursuant to regulations of the commissioner.
5. Land surveyors shall maintain adequate documentation of completion of acceptable continuing education and shall provide such documentation at the request of the department.
6. The mandatory continuing education fee shall be forty-five dollars and shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by paragraph eight of subdivision one of section seventy-two hundred six of this article.

*NB Repealed June 30, 2014.

- End of Excerpt from Article 145 -



2. Regulations of the Commissioner - Part 68

The following is excerpted from [Part 68 of the Regulations of the Commissioner](#):

Part 68 Engineering and Land Surveying

- §68.1 Education/experience credit.
 - §68.2 Experience acceptable for licensure as a professional engineer.
 - §68.3 Licensing examinations for engineering.
 - §68.4 Professional study of land surveying.
 - §68.5 Experience acceptable for licensure as a land surveyor.
 - §68.6 Licensing examinations for land surveying.
 - §68.7 Licensure by endorsement of out-of-state examination.
 - §68.8 Limited permits.
 - §68.9 Scope of practice by exempt persons.
 - §68.10 Seals.
 - §68.11 Continuing education for professional engineers.
 - §68.12 Continuing education for land surveyors.
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§68.1 Education/experience credit.

- a. Definition. Unless otherwise provided, acceptable accrediting agency means an accrediting agency which is recognized by the United States Commissioner of Education as a reliable authority for the purpose of accreditation at the postsecondary level, and which applies its criteria for granting accreditation in a fair, consistent and nondiscriminatory manner.
- b. Prior to licensure the applicant must accrue 12 years of acceptable education/experience credit. One year of education/experience credit may be earned for each year of work experience acceptable to the State Board for Engineering and Land Surveying pursuant to section 68.2 of this Part. Two years of education/experience credit may be earned for each year of professional engineering education obtained in a program leading to a bachelor's degree in engineering and accredited by an acceptable accrediting agency which specializes in the fields of engineering or in a program equivalent to such an accredited professional engineering program.
- c. Education/experience credits may also be proportionally earned for various levels and types of postsecondary education which, while not entirely the study of professional engineering, contain important elements/content of such study. Such postsecondary education should demonstrate the following:
 - 1. that it contains important elements/content of the study of professional engineering, such as mathematics, physics, chemistry, physical and applied sciences, design, and properties of materials;
 - 2. that it is in an appropriate subject relevant to the field of professional engineering, such as mathematics, physics, chemistry, physical and applied sciences, design, and properties of materials;



3. that it is at an appropriate level of study that would, at a minimum, be the material equivalent of study at an undergraduate level; and
 4. that it is part of a program accredited by an acceptable accrediting agency or part of a program equivalent to such an accredited program.
- d. In accordance with the provisions of subdivisions (a), (b), and (c) of this section, the department shall accept evidence of completion of a master's or doctoral degree in engineering in lieu of not more than one year of acceptable education/experience credit.

§68.2 Experience acceptable for licensure as a professional engineer.

Practical experience in professional engineering work satisfactory to the board shall be verified in a manner acceptable to the board and shall:

- a. demonstrate the intensive application of engineering principles in the practical solution of engineering problems;
- b. demonstrate a knowledge of engineering mathematics, physical and applied sciences, properties of materials, and the fundamental principles of engineering design;
- c. be broad in scope;
- d. be of such nature as to develop and mature the applicant's engineering knowledge and judgment; and
- e. include at least two years of experience acquired while working on projects requiring a knowledge and use of codes and practices utilized in the United States.

§68.3 Licensing examinations for engineering.

- a. The licensing examination shall consist of:
 1. fundamentals of engineering: a written examination to test the applicant's knowledge of fundamental principles of mathematics, science, engineering science, and appropriate related subjects; and
 2. principles and practice of engineering: a comprehensive problem-solving examination to test the applicant's ability to apply fundamental knowledge to the solution of practical engineering problems.
- b. Applications for admission to licensing examinations, including all required fees, shall be completed and filed not less than 90 days prior to the examination date. An applicant for admission to the fundamentals of engineering examination shall have earned six education/experience credits as defined in section 68.1 of this Part. An applicant for admission to the principles and practice of engineering examination shall have earned 12 education/experience credits.
- c. The fundamentals of engineering examination used since February 14, 1975 replaced, and is equivalent to, the sum of Parts I and II of the examinations used prior to February 1975. The principles and practice of engineering examination used since February 14, 1975 replaced, and is equivalent to, Part III of the examinations used prior to February 1975.
- d. The grade retention provisions of section 59.5 (f) of this Title shall not be applicable to engineering examinations.
- e. Passing grade.
 1. For candidates who completed any part of the examinations prior to February 14, 1975, the passing grade shall be an average of 75 on all parts taken, provided that

- no part shall be accepted with a grade less than 65 and not more than one part shall be accepted with a grade less than 75.
2. For candidates who did not establish credit for two parts of the examinations prior to February 14, 1975, the passing grade for examinations taken between February 14, 1975 and October 1, 1984 shall be 75 on each part.
 3. For candidates not having established credit for two parts of the examinations prior to October 1, 1984, the passing grade for each part taken after October 1, 1984 shall be 70.
- f. Review and rescoring of examinations shall be conducted in accordance with section 59.5 (g) of this Title.

§68.4 Professional study of land surveying.

- a. To meet the professional study requirement for licensure, the applicant shall present evidence of:
 1. possession of a bachelor's degree in land surveying or the equivalent from a program approved by the department for professional licensure purposes and four years of land surveying experience acceptable to the State Board; or
 2. completion of an approved secondary course of study; and
 - i. for those applying prior to September 1, 1987, the equivalent of six years of land surveying experience acceptable to the board, provided that each complete year of study in a land surveying program approved by the department for professional licensure purposes may be accepted in lieu of one year of such experience to a maximum of two years; and
 - ii. for those applying on or after September 1, 1987, the equivalent of eight years of land surveying experience acceptable to the board, provided that each complete year of study in a land surveying program approved by the department for professional licensure purposes may be accepted in lieu of one year of such experience to a maximum of four years.
- b. To meet the professional study requirement for certification as an intern land surveyor, the applicant shall present evidence of:
 1. possession of a bachelor's degree in land surveying or the equivalent from a program approved by the department for professional licensure purposes; or
 2. completion of an approved secondary course of study; and
 - i. for those applying prior to September 1, 1987, the equivalent of six years of land surveying experience acceptable to the board, provided that each complete year of study in a land surveying program approved by the department for professional licensure purposes may be accepted in lieu of one year of such experience, to a maximum of two years; and
 - ii. for those applying on or after September 1, 1987, the equivalent of eight years of land surveying experience acceptable to the board, provided that each complete year of study in a land surveying program approved by the department for professional licensure purposes may be accepted in lieu of one year of such experience, to a maximum of four years.

§68.5 Experience acceptable for licensure as a land surveyor.

Practical experience in land surveying work satisfactory to the board shall be verified in a manner acceptable to the board and shall:

- a. include 50 percent of the required experience spent in charge of work related to property conveyance and/or boundary line determination;
- b. demonstrate adequate experience in the technical field aspects of the profession;
- c. demonstrate adequate experience in charge of the office aspects of the profession;
- d. demonstrate experience in the legal aspects of the profession;
- e. demonstrate adequate direct supervision of experience by a licensed land surveyor; and
- f. include at least two years of experience acquired while working on projects requiring a knowledge and use of surveying codes and practices utilized in the United States.

§68.6 Licensing examinations for land surveying.

- a. An applicant for admission to the licensure examination in land surveying shall have satisfied the professional study requirements set forth in section 68.4 of this Part, except that an applicant for certification as an intern land surveyor may be admitted to Part 1 of the examination when such applicant is within 20 semester hours of completion of the requirements for a bachelor's degree in land surveying or the equivalent approved by the department for professional licensure purposes.
- b. Content. The examination shall consist of:
 1. Part 1 - Fundamentals of Land Surveying: mathematics, physics, English, surveying, property surveys and descriptions, vertical curves, state plane coordinate calculations, economic analysis; and
 2. Part 2 - Principles and Practice of Land Surveying: principles of profession (legal, technical, standards of professional conduct), property surveys, written instruments, monumentations, real property, field survey procedures, property survey descriptions, subdivision planning and design, deed descriptions and conveyancing, surveying law, geodetic surveying, hydrographic surveying; and
 3. Part 3 - Jurisdictional Examination, Surveying in New York State: examination in the practical and legal aspects of land surveying pertinent to New York State, the scope and content of which shall be determined by the State Board.
- c. After February 14, 1975, Fundamentals of Land Surveying, Part 1, replaces Fundamentals of Land Surveying, Mathematics; Principles and Practice of Land Surveying, Part 2, replaces Principles and Practice of Land Surveying, Surveying.
 1. Candidates who have established credit prior to February 14, 1975 for the mathematics part of the examination shall be examined in Part 2 and Part 3.
 2. Candidates who have established credit prior to February 14, 1975 for the surveying part of the examination shall be examined in Part 1 and Part 3.
 3. The grade retention provisions of section 59.5(f) of this Title shall not be applicable to land surveying examinations.
- d. Passing grade. The passing grade for each of the parts of the surveying examination taken prior to October 1, 1984 is 75.0; for parts taken on or after October 1, 1984, the passing grade shall be 70.0.

- e. Review and rescoring of examinations shall be conducted in accordance with section 59.5 (g) of this Title.

§68.7 Licensure by endorsement of out-of-state examination.

The department may license an applicant who meets all requirements for licensure in New York State, except examination and has been issued a license or certificate to practice professional engineering or land surveying issued to him upon written examination by a legally constituted board of examiners in any other state or political subdivision of the United States, provided that the examination for such license or certificate was the equivalent of the examination required in this State at the time it was issued.

§68.8 Limited permits.

- a. In accordance with section 7207 (1) of the Education Law and upon recommendation of the board, the department may issue to an engineer who is not a resident of this State and having no established place of practice in this State a limited permit to practice engineering solely in connection with a single specified project and subject to the same registration and revocation restrictions as a license, provided that such applicant submits:
 - 1. a completed application form, including:
 - i. the applicant's current residential and employment addresses;
 - ii. a description of the project for which the limited permit is requested; and
 - iii. a detailed description of experience satisfactory to the board and of a nature related to the project in New York for which the permit is to be issued;
 - 2. at least two satisfactory certifications as to character and qualifications submitted by licensed professional engineers, at least one of whom shall be a resident of this State;
 - 3. written confirmation, submitted to the department by the appropriate licensing authority, that the applicant is legally qualified to practice as a professional engineer or its equivalent in his own state or country; and
 - 4. payment of a permit fee of \$60 and, in addition, payment of the statutory registration fee.
- b. In accordance with section 7207(2) of the Education Law, the department may issue a limited permit to practice as a professional engineer or land surveyor in this State, when such practice does not aggregate more than 30 days in any calendar year, to a person not a resident of this State and having no established place of practice in this State, provided that such applicant submits:
 - 1. a completed application form including:
 - i. the applicant's current residential and employment addresses;
 - ii. the specific dates of anticipated practice which shall be for a continuous sequence of days, except that if acceptable reasons are submitted to the department, a special certificate may be issued for the unused portion of the time originally specified;
 - 2. written confirmation, submitted to the department by the appropriate licensing authority, that the applicant is legally qualified to practice as a professional engineer or land surveyor or the equivalent in his own state or country; and

3. payment of a permit fee of \$60.

§68.9 Scope of practice by exempt persons.

- a. The term engineering projects, as used in subdivision (m) of section 7208 of the Education Law, shall not include the survey of land for the purpose of establishing any real property boundaries within a subdivision.
- b. The term minor nature, as used in subdivision (n) of section 7208 of the Education Law, shall include but not be limited to the following projects:
 1. the design of water supply systems, sewage disposal systems, and storm drainage systems for individual lots or lots in subdivisions;
 2. the design of public water distribution systems for subdivisions where the project is within an existing water district approved by the appropriate Federal, State or local agencies, if:
 - i. the project does not involve source development, treatment, storage, transmission mains, pumping or pressure reduction; and
 - ii. the water mains, as determined by the appropriate Federal, State, or local agencies, do not require highly specialized and complex designs; and
 3. the design of public sanitary sewage collection facilities where the project does not include special complex designs such as, but not limited to, those related to extreme soil conditions requiring special bedding, special manholes (e.g., 20 feet or more), major stream or highway crossings, or tunneling, and the project:
 - i. is within an existing sanitary sewer district or within the study area of a comprehensive sewer study as approved by the appropriate Federal, State or local agencies, if the project is limited to the design of sanitary sewer mains, collection sewers and appurtenances within the subdivision, including the design of connections to existing mains or trunks accessible outside the subdivision; or
 - ii. is not within an existing sanitary sewer district or within the study area of a comprehensive sewer study as approved by the appropriate Federal, State or local agencies.
 4. All designs for water supply and sanitary sewage collection facilities of a minor nature shall be submitted for review and approval to the appropriate Federal, State or local agencies prior to incorporation in the final plans submitted for subdivision approval.

§68.10 Seals.

For those applicants initially applying for licensure on or after July 1, 1984, seals used by licensed professional engineers and land surveyors shall be circular in shape, approximately 1 3/4 inches in diameter, bearing the legend at the top of the outer band, "STATE OF NEW YORK" and at the bottom "LICENSED PROFESSIONAL ENGINEER" or "LICENSED LAND SURVEYOR" or "LICENSED PROFESSIONAL ENGINEER AND LAND SURVEYOR" as the case may be. In the inner circle above the Great Seal of New York shall be shown the name of the licensee, and below the Great Seal the license number with no other letters or numbers.

§68.11 Continuing education for professional engineers.

- a. Definitions. As used in this section, acceptable accrediting agency means an organization accepted by the department as a reliable authority for the purpose of accreditation at the postsecondary level, applying its criteria for granting accreditation in a fair, consistent and nondiscriminatory manner, such as an agency recognized for this purpose by the Council for Higher Education Accreditation.
- b. Applicability of requirement.
 - 1. Each licensed professional engineer, required under Article 145 of the Education Law to register with the department to practice in New York State, shall comply with the mandatory continuing education requirements as prescribed in subdivision (c) of this section, except those licensees exempt from the requirement or who obtain an adjustment to the requirement pursuant to paragraph (2) of this subdivision or who are subject to a different requirement pursuant to this section.
 - 2. Exemptions and adjustments to the requirement.
 - i. Exemptions. The following licensees shall be exempt from the continuing education requirements, as prescribed in subdivision (c) this section:
 - a. licensees for the triennial registration period during which they are first licensed to practice engineering in New York State, except those first licensed to practice engineering in New York State pursuant to an endorsement of a license of another jurisdiction; and
 - b. licensees whose first registration date following January 1, 2004 occurs prior to January 1, 2005, for periods prior to such registration date; and
 - c. licensees who are not engaged in the practice of engineering as evidenced by not being registered to practice in New York State, except as otherwise provided in subdivision (e) of this section to meet the requirements for the resumption of practice in New York State.
 - ii. Adjustments to the requirement. An adjustment to the continuing education requirement, as prescribed in subdivision (c) of this section, may be made by the department, provided that the licensee documents good cause that prevents compliance, which shall include, but not be limited to, any of the following reasons: poor health certified by a physician; or a specific physical or mental disability certified by an appropriate health care professional; or extended active duty with the Armed Forces of the United States; or other good cause beyond the licensee's control which in the judgment of the department makes it impossible for the licensee to comply with the continuing education requirements in a timely manner.
- c. Mandatory continuing education requirement.
 - 1. General requirement.
 - i. During each triennial registration period, meaning a registration period of three years' duration, an applicant for registration shall complete at least 36 hours of continuing education acceptable to the department, as defined in paragraph (3) of this subdivision, provided that at least 18 hours of such

continuing education shall be in courses of learning, and no more than 18 hours of such continuing education shall be in other educational activities as prescribed in paragraph (3) of this subdivision. Any licensed professional engineer whose first registration date following January 1, 2004 occurs less than three years from that date, but on or after January 1, 2005, shall complete continuing education hours on a prorated basis at the rate of one hour of acceptable continuing education per month for the period beginning January 1, 2004 up to the first registration date thereafter. Such continuing education shall be completed during the period beginning January 1, 2004 and ending before the first day of the new registration period or at the option of the licensee during any time in the previous registration period.

- ii. Proration. Unless otherwise prescribed in this section, during each registration period of less than three years' duration, an applicant for registration shall complete acceptable continuing education, as defined in paragraph (3) of this subdivision and within the limits prescribed in such paragraph, on a prorated basis at a rate of one hour of continuing education per month for such registration period.

2. Requirement for certain licensees.

- i. In accordance with section 7211(1)(d) of the Education Law, a licensee shall be deemed to have satisfied the continuing education requirement prescribed in paragraph (1) of this subdivision, if the licensee meets the following conditions:
 - a. On December 31, 2003, the licensee was directly employed on a full-time basis by the State of New York; or agencies, public authorities, or public benefit corporations of the State of New York; or local government units of the State of New York in a position requiring licensure in engineering and is represented by a collective bargaining unit at all times when so employed; and
 - b. either:
 - 1. the licensee has continuously been employed in a position or successor positions described in clause (a) of this subparagraph, and since January 1, 2004, has not otherwise practiced engineering in New York State in any other capacity outside of such employment; or
 - 2. the licensee has left employment described in clause (a) of this subparagraph, and since January 1, 2004, has not practiced engineering in New York State in any other capacity outside of employment in a position described in clause (a) of this subparagraph.
- ii. A licensee who does not meet the conditions prescribed in clauses (a) and (b) of subparagraph (i) of this paragraph shall be required to complete acceptable continuing education, as defined in paragraph (3) of this subdivision, at the rate of one hour of continuing education per month from the date the condition is not met until the next registration date. Thereafter, the licensee shall complete the regular continuing education requirement prescribed in paragraph (1) of this subdivision.

3. Acceptable continuing education. To be acceptable to the department, continuing education shall meet the requirements of this paragraph. Such continuing education must be in the subjects prescribed in subparagraph (i) of this paragraph and be the types of learning activities prescribed in subparagraph (ii) of this paragraph.
 - i. Subjects. Acceptable continuing education shall contribute to professional practice in engineering and shall have as its focus one or more of the following subjects:
 - a. aerospace engineering, agricultural engineering, architectural engineering, bioengineering, ceramic engineering, chemical engineering, civil engineering, construction engineering, control systems engineering, electrical/computer engineering, environmental engineering, fire protection engineering, geological engineering, industrial engineering, manufacturing engineering, mechanical engineering, materials/metallurgical engineering, mining/mineral engineering, naval architecture/marine engineering, nuclear/radiological engineering, ocean engineering, petroleum engineering, structural engineering, systems engineering, architecture, land surveying; or other matters of law and/or ethics which contribute to the professional practice of engineering and the health, safety, and/or welfare of the public; and
 - b. in other topics which contribute to the professional practice of engineering as such practice is defined in section 7201 of the Education Law.
 - ii. Types of learning activities. Acceptable continuing education shall be the types of learning activities prescribed in this subparagraph and be subject to the limitations prescribed in this subparagraph.
 - a. Courses of learning. Acceptable continuing education shall be courses of learning offered by a sponsor approved pursuant to subdivision (i) of this section, which may include, among others, the following courses offered by an approved sponsor: university and college courses, and professional development and technical training courses.
 - b. Other educational activities. Acceptable continuing education shall be the following other educational activities, provided that no more than 18 hours of continuing education in a registration period shall consist of such other educational activities:
 1. preparing and teaching a course offered by a sponsor of continuing education to professional engineers, approved pursuant to subdivision (i) of this section, provided that such teaching shall not be acceptable where the licensee has taught the course on more than one occasion without presenting new or revised material. Continuing education hours that may be credited for this activity may include actual instructional time plus preparation time which may be up to two additional hours for each hour of presentation;
 2. authoring an article published in a peer-reviewed journal or a published book. A licensee shall receive nine continuing

- education hours for each written work published during the registration period.
3. making a technical presentation at a professional conference sponsored by an organization that is a sponsor of continuing education to professional engineers, approved pursuant to subdivision (i) of this section. Continuing education hours that may be credited for this activity shall include actual instructional time, plus preparation time which may be up to two additional hours for each hour taught.
 4. obtaining a patent related to the practice of engineering. A licensee shall receive nine continuing education hours for each patent granted on an invention during the registration period.
 5. completing a self-study program, meaning structured study, provided by a sponsor approved pursuant to subdivision (i) of this section, that is based on audio, audio-visual, written, on-line, and other media, and does not include live instruction, transmitted in person or otherwise, during which the student may communicate and interact with the instructor and other students.
- d. Renewal of registration. At each re-registration, licensed professional engineers shall certify to the department that they have either complied with the continuing education requirements, as prescribed in this section, or are subject to an exemption or adjustment to such continuing education requirements, as prescribed in subdivision (b) of this section.
- e. Requirement for lapse in practice.
1. A licensee returning to the practice of engineering after a lapse in practice, as evidenced by not being registered to practice in New York State, whose first registration date after such lapse in practice and following January 1, 2004 occurs less than three years from January 1, 2004, but on or after January 1, 2005, shall be required to complete:
 - i. at least one hour of acceptable continuing education for each month beginning with January 1, 2004 until the beginning of the new registration period, which shall be completed for a licensee who has not lawfully practiced engineering continuously in another jurisdiction throughout such lapse period, in the 12-month period before the beginning of the new registration period; and for the licensee who has lawfully practiced engineering continuously in another jurisdiction throughout such lapse period, in the new registration period or at the option of the licensee in the period beginning 36 months before the commencement of the new registration period and ending at the conclusion of such registration period; and
 - ii. for a licensee who has not lawfully practiced engineering continuously in another jurisdiction throughout such lapse period, at least 12 hours of acceptable continuing education in each successive 12-month period of the new registration period; and for a licensee who has lawfully practiced engineering continuously in another jurisdiction throughout such lapse

- period, the regular continuing education requirement during the new registration period.
2. Except as prescribed in subparagraph (i) of this paragraph for registrations therein specified, the licensee who returns to the practice of engineering after a lapse in practice in which the licensee was not registered to practice in New York State and did not lawfully practice engineering continuously in another jurisdiction throughout the lapse period, shall be required to complete:
 - i. the continuing education requirement applicable to the period of time the licensee was registered in the licensee's last registration period; and
 - ii. at least one hour of acceptable continuing education for each month of lapsed registration up to a maximum 36 hours, which shall be completed in the 12 months before the beginning of the new registration period; and
 - iii. at least 12 hours of acceptable continuing education in each succeeding 12-month period, after such registration is reissued, until the next registration date.
 3. Except as prescribed in subparagraph (i) of this paragraph for registrations therein specified, the licensee who returns to the practice of engineering after a lapse in practice in which the licensee was not registered to practice in New York State but did lawfully practice engineering continuously in another jurisdiction throughout the lapse period, shall be required to complete:
 - i. the continuing education requirement applicable to the period of time the licensee was registered in the licensee's last registration period; and
 - ii. at least one hour of acceptable continuing education for each month of lapsed registration up to a maximum of 36 hours, which shall be completed in the new registration period, or at the option of the licensee in the period beginning 36 months before the commencement of the new registration period and ending at the conclusion of the new registration period; and
 - iii. the regular continuing education requirement during the new registration period.
- f. Conditional registration.
1. The department may issue a conditional registration to a licensee who attests to or admits to noncompliance with the continuing education requirements of this section, provided that such licensee meets the following requirements:
 - i. the licensee agrees to remedy such deficiency within the conditional registration period;
 - ii. the licensee agrees to complete the regular continuing education requirement at the rate of one hour of acceptable continuing education per month during such conditional registration period; and
 - iii. the licensee agrees to complete additional continuing education during such conditional registration period, which the department may require to ensure the licensee's proper delivery of professional engineering services consistent with the licensee's practice of engineering.
 2. The duration of such conditional registration shall not exceed one year and shall not be renewed or extended.
- g. Licensee records. Each licensee subject to the requirements of this section shall maintain, or ensure access by the department to, a record of completed continuing education, which includes: the type of learning activity, title of the course if a course, subject of the

continuing education, the number of hours completed, the sponsor's name and any identifying number (if applicable), attendance verification if a course, participation verification if another educational activity, and the date and location of the continuing education. Such records shall be retained for at least six years from the date of completion of the continuing education and shall be available for review by the department in the administration of the requirements of this section.

- h. Measurement of continuing education study. Continuing education credit shall be granted only for acceptable continuing education, as prescribed in subdivision (c) of this section. For continuing education courses, a minimum of 50 minutes shall equal one continuing education hour of credit. For credit-bearing university or college courses, each semester-hour of credit shall equal 15 continuing education hours of credit, and each quarter-hour of credit shall equal 10 continuing education hours of credit.
- i. Sponsor approval.
 - 1. To be approved by the department, sponsors of continuing education to licensed professional engineers in the form of courses of learning or self-study programs shall meet the requirements of either paragraph (2) or (3) of this subdivision.
 - 2. The department shall deem approved as a sponsor of continuing education to licensed professional engineers in the form of courses of learning or self-study programs:
 - i. a sponsor of continuing education that is approved by the International Association for Continuing Education and Training (IACET), or the Practicing Institute of Engineering, or the American Institute of Architects Continuing Education System (AIA/CES), or an equivalent organization determined by the department with assistance from the State Board for Engineering and Land Surveying to have adequate standards for approving sponsors of continuing education for professionals regulated by Title VIII of the Education Law that include but are not limited to standards that are equivalent to the standards prescribed in clauses (3) (ii) (a), (c), and (d) of this subdivision; or
 - ii. a postsecondary institution that has authority to offer programs that are registered pursuant to Part 52 of this Title or authority to offer equivalent programs that are accredited by an acceptable accrediting agency.
 - 3. Department review of sponsors.
 - i. The department shall conduct a review of sponsors that apply for approval to offer continuing education to licensed professional engineers in the form of courses of learning or self-study programs that are not deemed approved pursuant to the requirements of paragraph (2) of this subdivision.
 - ii. Organizations desiring to offer courses of learning or self-study programs based upon a department review under this paragraph shall submit, with the fee as set forth in subdivision (j) of this section, an application for advance approval as a sponsor at least 90 days prior to the date of the commencement of such continuing education that documents that the organization:
 - a. will offer courses of learning or self-study programs in one or more of the subjects prescribed for acceptable continuing education in subparagraph (c) (3) (i) of this section;
 - b. is an organized educational entity or an entity that has expertise in the professional areas that will be taught, including but not limited

- to, postsecondary institutions that are not already deemed approved pursuant to subparagraph (2)(ii) of this subdivision, and national, state, or local engineering associations;
- c. provides course instructors who are qualified to teach the courses which will be offered, including but not limited to, faculty of a college of engineering accredited by an acceptable accrediting agency; or instructors who are specially qualified authorities in engineering, as determined by the department with assistance from the State Board for Engineering and Land Surveying, to conduct such courses;
 - d. has a method of assessing the learning of participants, and describes such method; and
 - e. will maintain records for at least six years from the date of completion of coursework, which shall include, but shall not be limited to, the name and curriculum vitae of the faculty, a record of attendance of licensed professional engineers in the course if a course, a record of participation of licensed professional engineers in the self-study program if a self-study program, an outline of the course or program, date and location of the course or program, and the number of hours for completion of the course or program. In the event an approved sponsor discontinues operation, the governing body of such sponsor shall notify the department and shall transfer all records as directed by the department.
- iii. Sponsors that are approved by the department pursuant to the requirements of this paragraph shall be approved for a three-year term.
 - iv. The department may conduct site visits of, or request information from, a sponsor approved pursuant to the requirements of this paragraph to ensure compliance with such requirements, and a sponsor shall cooperate with the department in permitting such site visits and in providing such information.
 - v. A determination by the department that a sponsor approved pursuant to the requirements of this paragraph is not meeting the standards set forth in this paragraph shall result in the denial or termination of the approved status of the sponsor.
- j. Fees.
- 1. At the beginning of each registration period, a mandatory continuing education fee of \$45 shall be collected from licensees engaged in the practice of engineering in New York State, except for those exempt from the requirement pursuant clauses (b)(2)(i)(a) and (c) of this section. This fee shall be in addition to the registration fee required by section 7206 of the Education Law.
 - 2. Licensees applying for a conditional registration, pursuant to the requirements of subdivision (f) of this section, shall pay a fee that is the same as and in addition to, the fee for the triennial registration required by section 7206 of the Education Law. In addition, such licensees shall pay the \$45 mandatory continuing education fee.
 - 3. Organizations desiring to offer continuing education to licensed professional engineers based upon a department review, pursuant to paragraph (i)(3) of this section, shall submit an application fee of \$900 with the application requesting the

issuance of a permit from the department to become an approved sponsor of continuing education to licensed professional engineers in the form of courses of learning or self-study programs. Application for a three-year renewal of the permit shall be accompanied by a fee of \$900.

§68.12 Continuing education for land surveyors. (Effective until June 30, 2014)

a. General provisions.

1. Expiration date. In accordance with section 2 of Chapter 135 of the Laws of 2002, this section shall not be in effect on or after June 30, 2014.
2. As used in this section, acceptable accrediting agency means an organization accepted by the department as a reliable authority for the purpose of accreditation at the postsecondary level, applying its criteria for granting accreditation in a fair, consistent and nondiscriminatory manner, such as an agency recognized for this purpose by the Council for Higher Education Accreditation.



b. Applicability of requirement.

1. Each licensed land surveyor, required under Article 145 of the Education Law to register with the department to practice in New York State, shall comply with the mandatory continuing education requirements as prescribed in subdivision (c) of this section, except those licensees exempt from the requirement or who obtain an adjustment to the requirement pursuant to paragraph (2) of this subdivision or who are subject to a different requirement pursuant to this section.
2. Exemptions and adjustments to the requirement.
 - i. Exemptions. The following licensees shall be exempt from the continuing education requirements, as prescribed in subdivision (c) of this section:
 - a. licensees for the triennial registration period during which they are first licensed to practice land surveying in New York State, except those first licensed to practice land surveying in New York State pursuant to an endorsement of a license of another jurisdiction; and
 - b. licensees whose first registration date following January 1, 2004 occurs prior to January 1, 2005, for periods prior to such registration date; and
 - c. licensees who are not engaged in the practice of land surveying as evidenced by not being registered to practice in New York State, except as otherwise provided in subdivision (e) of this section to meet the requirements for the resumption of practice in New York State.
 - ii. Adjustments to the requirement. An adjustment to the continuing education requirement, as prescribed in subdivision (c) of this section, may be made by the department, provided that the licensee documents good cause that prevents compliance, which shall include, but not be limited to, any of the following reasons: poor health certified by a

physician; or a specific physical or mental disability certified by an appropriate health care professional; or extended active duty with the Armed Forces of the United States; or other good cause beyond the licensee's control which in the judgment of the department makes it impossible for the licensee to comply with the continuing education requirements in a timely manner.

c. Mandatory continuing education requirement.

1. General requirement.

i. During each triennial registration period, meaning a registration period of three years' duration, an applicant for registration shall complete at least 24 hours of continuing education acceptable to the department, as defined in paragraph (2) of this subdivision, provided that at least 16 hours of such continuing education shall be in courses of learning, and no more than eight hours of such continuing education shall be in other educational activities as prescribed in paragraph (2) of this subdivision, including but not limited to self-study programs. Any licensed land surveyor whose first registration date following January 1, 2004 occurs less than three years from that date, but on or after January 1, 2005, shall complete continuing education hours on a prorated basis at the rate of one hour of acceptable continuing education per month, up to a maximum of 24 continuing education hours, for the period beginning January 1, 2004 up to the first registration date thereafter. Such continuing education shall be completed during the period beginning January 1, 2004 and ending before the first day of the new registration period or at the option of the licensee during any time in the previous registration period.

ii. Proration. Unless otherwise prescribed in this section, during each registration period of less than three years' duration, an applicant for registration shall complete acceptable continuing education, as defined in paragraph (2) of this subdivision and within the limits prescribed in such paragraph, on a prorated basis at a rate of one hour of continuing education per month, up to 24 continuing education hours, for such registration period.

2. Acceptable continuing education. To be acceptable to the department, continuing education shall meet the requirements of this paragraph. Such continuing education must be in the subjects prescribed in subparagraph (i) of this paragraph and be the types of learning activities prescribed in subparagraph (ii) of this paragraph.

i. Subjects. Acceptable continuing education shall contribute to the practice of land surveying and shall have as its focus one or more of the following subjects:

- a. land surveying methods and techniques; or other matters of law and/or ethics which contribute to the practice of land surveying and the health, safety, and/or welfare of the public; and
- b. in other topics which contribute to the practice of land surveying as such practice is defined in section 7203 of the Education Law.

ii. Types of learning activities. Acceptable continuing education shall be the types of learning activities prescribed in this subparagraph and be subject to the limitations prescribed in this subparagraph.

- a. Courses of learning. Acceptable continuing education shall be courses of learning offered by a sponsor approved pursuant to subdivision (i) of this section, which may include, among others, the following courses offered by an approved sponsor: university and college courses, and professional development and technical training courses.
- b. Other educational activities. Acceptable continuing education shall be the following other educational activities, provided that no more than eight hours of continuing education in a registration period shall consist of such other educational activities, including but not limited to self-study programs:
 1. preparing and teaching a course offered by a sponsor of continuing education to licensed land surveyors, approved pursuant to subdivision (i) of this section, provided that such teaching shall not be acceptable where the licensee has taught the course on more than one occasion without presenting new or revised material. Continuing education hours that may be credited for this activity may include actual instructional time plus preparation time which may be up to two additional hours for each hour taught;
 2. authoring an article published in a peer-reviewed journal or a published book. A licensee shall receive eight continuing education hours for each written work published during the registration period;
 3. making a technical presentation at a professional conference sponsored by an organization that is a sponsor of continuing education to licensed land surveyors, approved pursuant to subdivision (i) of this section. Continuing education hours that may be credited for this activity shall include actual instructional time, plus preparation time which may be up to two additional hours for each hour taught;
 4. obtaining a patent related to the practice of land surveying. A licensee shall receive eight continuing education hours for each patent granted on an invention during the registration period; and
 5. completing a self-study program, meaning structured study, provided by a sponsor approved pursuant to subdivision (i) of this section, that is based on audio, audio-visual, written, on-line, and other media, and does not include live instruction, transmitted in person or otherwise, during which the student may communicate and interact with the instructor and other students.
- d. Renewal of registration. At each re-registration, licensed land surveyors shall certify to the department that they have either complied with the continuing education requirements, as prescribed in this section, or are subject to an exemption or adjustment to such continuing education requirements, as prescribed in subdivision (b) of this section.
- e. Requirement for lapse in practice.

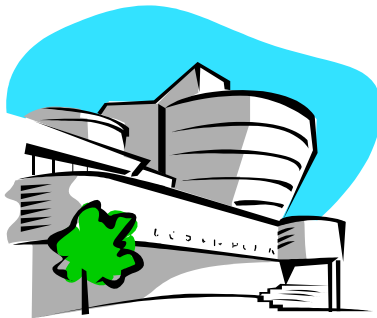
1. A licensee returning to the practice of land surveying after a lapse in practice, as evidenced by not being registered to practice in New York State, whose first registration date after such lapse in practice and following January 1, 2004 occurs less than three years from January 1, 2004, but on or after January 1, 2005, shall be required to complete:
 - i. at least one hour of acceptable continuing education, up to a maximum of 24 hours, for each month beginning with January 1, 2004 until the beginning of the new registration period, which shall be completed for a licensee who has not lawfully practiced land surveying continuously in another jurisdiction throughout such lapse period, in the 12-month period before the beginning of the new registration period; and for the licensee who has lawfully practiced land surveying continuously in another jurisdiction throughout such lapse period, in the new registration period or at the option of the licensee in the period beginning 36 months before the commencement of the new registration period and ending at the conclusion of such registration period; and
 - ii. for a licensee who has not lawfully practiced land surveying continuously in another jurisdiction throughout such lapse period, at least eight hours of acceptable continuing education in each successive 12-month period of the new registration period; and for a licensee who has lawfully practiced land surveying continuously in another jurisdiction throughout such lapse period, the regular continuing education requirement during the new registration period.
2. Except as prescribed in subparagraph (i) of this paragraph for registrations therein specified, the licensee who returns to the practice of land surveying after a lapse in practice in which the licensee was not registered to practice in New York State and did not lawfully practice land surveying continuously in another jurisdiction throughout the lapse period, shall be required to complete:
 - i. the continuing education requirement applicable to the period of time the licensee was registered in the licensee's last registration period; and
 - ii. at least one hour of acceptable continuing education for each month of lapsed registration up to a maximum 24 hours, which shall be completed in the 12 months before the beginning of the new registration period; and
 - iii. at least eight hours of acceptable continuing education in each succeeding 12-month period, after such registration is reissued, until the next registration date.
3. Except as prescribed in subparagraph (i) of this paragraph for registrations therein specified, the licensee who returns to the practice of land surveying after a lapse in practice in which the licensee was not registered to practice in New York State but did lawfully practice land surveying continuously in another jurisdiction throughout the lapse period, shall be required to complete:
 - i. the continuing education requirement applicable to the period of time the licensee was registered in the licensee's last registration period; and
 - ii. at least one hour of acceptable continuing education for each month of lapsed registration up to a maximum of 24 hours, which shall be completed in the new registration period, or at the option of the licensee in the period beginning 36 months before the commencement of the new

- registration period and ending at the conclusion of the new registration period; and
- iii. the regular continuing education requirement during the new registration period.
- f. Conditional registration.
 - 1. The department may issue a conditional registration to a licensee who attests to or admits to noncompliance with the continuing education requirements of this section, provided that such licensee meets the following requirements:
 - i. the licensee agrees to remedy such deficiency within the conditional registration period;
 - ii. the licensee agrees to complete the regular continuing education requirement at the rate of one hour of acceptable continuing education per month during such conditional registration period; and
 - iii. the licensee agrees to complete additional continuing education during such conditional registration period, which the department may require to ensure the licensee's proper delivery of land surveying services consistent with the licensee's practice of land surveying.
 - 2. The duration of such conditional registration shall not exceed one year and shall not be renewed or extended.
- g. Licensee records. Each licensee subject to the requirements of this section shall maintain, or ensure access by the department to, a record of completed continuing education, which includes: the type of learning activity, title of the course if a course, subject of the continuing education, the number of hours completed, the sponsor's name and any identifying number (if applicable), attendance verification if a course, participation verification if another educational activity, and the date and location of the continuing education. Such records shall be retained for at least six years from the date of completion of the continuing education and shall be available for review by the department in the administration of the requirements of this section.
- h. Measurement of continuing education study. Continuing education credit shall be granted only for acceptable continuing education, as prescribed in subdivision (c) of this section. For continuing education courses, a minimum of 50 minutes shall equal one continuing education hour of credit. For credit-bearing university or college courses, each semester-hour of credit shall equal 15 continuing education hours of credit, and each quarter-hour of credit shall equal 10 continuing education hours of credit.
- i. Sponsor approval.
 - 1. To be approved by the department, sponsors of continuing education to licensed land surveyors in the form of courses of learning or self-study programs shall meet the requirements of either paragraph (2) or (3) of this subdivision.
 - 2. The department shall deem approved as a sponsor of continuing education to licensed land surveyors in the form of courses of learning or self-study programs:
 - i. a sponsor of continuing education that is approved by the International Association for Continuing Education and Training (IACET), or the Shaw Fund Continuing Education Approved Provider Program, or the Practicing Institute of Engineering, or the American Institute of Architects Continuing Education System (AIA/CES), or an equivalent organization determined by the department with assistance from the State Board for Engineering and Land Surveying to have adequate standards for approving sponsors of continuing education for professionals regulated by Title VIII

- of the Education Law that include but are not limited to standards that are equivalent to the standards prescribed in clauses (3) (ii) (a), (c), and (d) of this subdivision; or
- ii. a postsecondary institution that has authority to offer programs that are registered pursuant to Part 52 of this Title or authority to offer equivalent programs that are accredited by an acceptable accrediting agency.
3. Department review of sponsors.
- i. The department shall conduct a review of sponsors that apply for approval to offer continuing education to licensed land surveyors in the form of courses of learning or self-study programs that are not deemed approved pursuant to the requirements of paragraph (2) of this subdivision.
 - ii. Organizations desiring to offer courses of learning or self-study programs based upon a department review under this paragraph shall submit, with the fee as set forth in subdivision (j) of this section, an application for advance approval as a sponsor at least 90 days prior to the date of the commencement of such continuing education that documents that the organization:
 - a. will offer courses of learning or self-study programs in one or more of the subjects prescribed for acceptable continuing education in subparagraph (c) (2) (i) of this section;
 - b. is an organized educational entity or an entity that has expertise in the professional areas that will be taught, including but not limited to, postsecondary institutions that are not already deemed approved pursuant to subparagraph (2)(ii) of this subdivision, and national, state, or local land surveying associations;
 - c. provides course instructors who are qualified to teach the courses which will be offered, including but not limited to, faculty of a college of land surveying accredited by an acceptable accrediting agency; or instructors who are specially qualified authorities in land surveying, as determined by the department with assistance from the State Board for Engineering and Land Surveying, to conduct such courses;
 - d. has a method of assessing the learning of participants, and describes such method; and
 - e. will maintain records for at least six years from the date of completion of coursework, which shall include, but shall not be limited to, the name and curriculum vitae of the faculty, a record of attendance of licensed land surveyors in the course if a course, a record of participation of licensed land surveyors in the self-study program if a self-study program, an outline of the course or program, date and location of the course or program, and the number of hours for completion of the course or program. In the event an approved sponsor discontinues operation, the governing body of such sponsor shall notify the department and shall transfer all records as directed by the department.
 - iii. Sponsors that are approved by the department pursuant to the requirements of this paragraph shall be approved for a three-year term.

- iv. The department may conduct site visits of, or request information from, a sponsor approved pursuant to the requirements of this paragraph to ensure compliance with such requirements, and a sponsor shall cooperate with the department in permitting such site visits and in providing such information.
 - v. A determination by the department that a sponsor approved pursuant to the requirements of this paragraph is not meeting the standards set forth in this paragraph shall result in the denial or termination of the approved status of the sponsor.
- j. Fees.
- 1. At the beginning of each registration period, a mandatory continuing education fee of \$45 shall be collected from licensees engaged in the practice of land surveying in New York State, except for those exempt from the continuing education requirement pursuant to clauses (b)(2)(i)(a) and (c) of this section. This fee shall be in addition to the registration fee required by section 7206-a of the Education Law.
 - 2. Licensees applying for a conditional registration, pursuant to the requirements of subdivision (f) of this section, shall pay a fee that is the same as and in addition to, the fee for the triennial registration required by section 7206-a of the Education Law. In addition, such licensees shall pay the \$45 mandatory continuing education fee.
 - 3. Organizations desiring to offer continuing education to licensed land surveyors based upon a department review, pursuant to paragraph (i)(3) of this section, shall submit an application fee of \$900 with the application requesting the issuance of a permit from the department to become an approved sponsor of continuing education to licensed land surveyors in the form of courses of learning or self-study programs. Application for a three-year renewal of the permit shall be accompanied by a fee of \$900.

- End of Excerption from Part 68 -



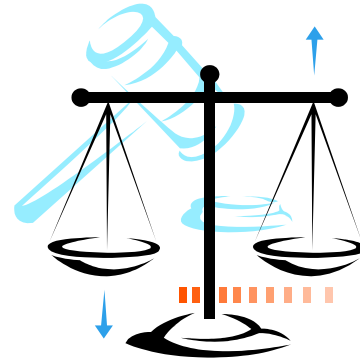
3. Rules of the Board of Regents - Part 29

The following is excerpted from [Part 29 of the Rules of the Board of Regents](#):

Part 29 Unprofessional Conduct

§ 29.1 General provisions.

- a. Unprofessional conduct shall be the conduct prohibited by this section. The provisions of these rules applicable to a particular profession may define additional acts or omissions as unprofessional conduct and may establish exceptions to these general prohibitions.
- b. Unprofessional conduct in the practice of any profession licensed, certified or registered pursuant to title VIII of the Education Law, except for cases involving those professions licensed, certified or registered pursuant to the provisions of Article 131 or 131-B of such law in which a statement of charges of professional misconduct was not served on or before July 26, 1991, the effective date of Chapter 606 of the Laws of 1991, shall include:
 1. willful or grossly negligent failure to comply with substantial provisions of Federal, State or local laws, rules or regulations governing the practice of the profession;
 2. exercising undue influence on the patient or client, including the promotion of the sale of services, goods, appliances or drugs in such manner as to exploit the patient or client for the financial gain of the practitioner or of a third party;
 3. directly or indirectly offering, giving, soliciting, or receiving or agreeing to receive, any fee or other consideration to or from a third party for the referral of a patient or client or in connection with the performance of professional services;
 4. permitting any person to share in the fees for professional services, other than: a partner, employee, associate in a professional firm or corporation, professional subcontractor or consultant authorized to practice the same profession, or a legally authorized trainee practicing under the supervision of a licensed practitioner. This prohibition shall include any arrangement or agreement whereby the amount received in payment for furnishing space, facilities, equipment or personnel services used by a professional licensee constitutes a percentage of, or is otherwise dependent upon, the income or receipts of the licensee from such practice, except as otherwise provided by law with respect to a facility licensed pursuant to Article 28 of the Public Health Law or Article 13 of the Mental Hygiene Law;



5. conduct in the practice of a profession which evidences moral unfitness to practice the profession;
6. willfully making or filing a false report, or failing to file a report required by law or by the Education Department, or willfully impeding or obstructing such filing, or inducing another person to do so;
7. failing to make available to a patient or client, upon request, copies of documents in the possession or under the control of the licensee which have been prepared for and paid for by the patient or client;
8. revealing of personally identifiable facts, data or information obtained in a professional capacity without the prior consent of the patient or client, except as authorized or required by law;
9. practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform, or performing without adequate supervision professional services which the licensee is authorized to perform only under the supervision of a licensed professional, except in an emergency situation where a person's life or health is in danger;
10. delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified, by training, by experience or by licensure, to perform them;
11. performing professional services which have not been duly authorized by the patient or client or his or her legal representative;
12. advertising or soliciting for patronage that is not in the public interest:
 - i. Advertising or soliciting not in the public interest shall include, but not be limited to, advertising or soliciting that:
 - a. is false, fraudulent, deceptive or misleading;
 - b. guarantees any service;
 - c. makes any claim relating to professional services or products or the cost or price therefore which cannot be substantiated by the licensee, who shall have the burden of proof;
 - d. makes claims of professional superiority which cannot be substantiated by the licensee, who shall have the burden of proof;
or
 - e. offers bonuses or inducements in any form other than a discount or reduction in an established fee or price for a professional service or product.
 - ii. The following shall be deemed appropriate means of informing the public of the availability of professional services:

- a. informational advertising not contrary to the foregoing prohibitions; and
 - b. the advertising in a newspaper, periodical or professional directory or on radio or television of fixed prices, or a stated range of prices, for specified routine professional services, provided that if there is an additional charge for related services which are an integral part of the overall service being provided by the licensee, the advertisement shall so state, and provided further that the advertisement indicates the period of time for which the advertised prices shall be in effect.
- iii.
 - a. all licensees placing advertisements shall maintain, or cause to be maintained, an exact copy of each advertisement, transcript, tape or videotape thereof as appropriate for the medium used, for a period of one year after its last appearance. This copy shall be made available for inspection upon demand of the Education Department;
 - b. a licensee shall not compensate or give anything of value to representatives of the press, radio, television or other communications media in anticipation of or in return for professional publicity in a news item;
- iv. Testimonials, demonstrations, dramatizations, or other portrayals of professional practice are permissible provided that they otherwise comply with the rules of professional conduct and further provided that the following conditions are satisfied:
 - a. the patient or client expressly authorizes the portrayal in writing;
 - b. appropriate disclosure is included to prevent any misleading information or imagery as to the identity of the patient or client;
 - c. reasonable disclaimers are included as to any statements made or results achieved in a particular matter;
 - d. the use of fictional situations or characters may be used if no testimonials are included; and
 - e. fictional client testimonials are not permitted;
- 13. failing to respond within 30 days to written communications from the Education Department or the Department of Health and to make available any relevant records with respect to an inquiry or complaint about the licensee's unprofessional conduct. The period of 30 days shall commence on the date when such communication was delivered personally to the licensee. If the communication is sent from either department by registered or certified mail, with return receipt requested, to the address appearing in the last registration, the period of 30 days shall commence on the date of delivery to the licensee, as indicated by the return receipt;
- 14. violating any term of probation or condition or limitation imposed on the licensee by the Board of Regents pursuant to Education Law, Section 6511.

§ 29.3 General provisions for design professions.

- a. Unprofessional conduct shall also include, in the professions of architecture and landscape architecture, engineering and land surveying:
 1. being associated in a professional capacity with any project or practice known to the licensee to be fraudulent or dishonest in character, or not reporting knowledge of such fraudulence or dishonesty to the Education Department;
 2. failing to report in writing to the owner or to the owner's designated agent any unauthorized or improperly authorized substantial disregard by any contractor of plans or specifications for construction or fabrication, when professional observation or supervision of the work is provided for in the agreement between the owner and the design professional or when supervision of the work is under the control of the design professional;
 3. certifying by affixing the licensee's signature and seal to documents for which the professional services have not been performed by, or thoroughly reviewed by, the licensee; or failing to prepare and retain a written evaluation of the professional services represented by such documents in accordance with the following requirements:
 - i. a licensee who signs and seals documents not prepared by the licensee or by an employee under the licensee's direct supervision shall prepare, and retain for a period of not less than six years, a thorough written evaluation of the professional services represented by the documents, including but not limited to drawings, specifications, reports, design calculations and references to applicable codes and standards. Such written evaluation shall clearly identify the project and the documents to which it relates, the source of the documents and the name of the person or organization for which the written evaluation was conducted, and the date of the evaluation, and the seal and signature of the licensee shall also be affixed thereto; and
 - ii. nothing in this paragraph shall be construed as authorizing the practice of a design profession in this State by persons other than those authorized to practice pursuant to the provisions of Article 145, 147 or 148 of the Education Law;
 4. failure by a licensee to maintain for at least six years all preliminary and final plans, documents, computations, records and professional evaluations prepared by the licensee, or the licensee's employees, relating to work to which the licensee has affixed his seal and signature;
 5. having a substantial financial interest, without the knowledge and approval of the client or employer, in any products or in the bids or earnings of any contractor, manufacturer or supplier on work for which the professional has responsibility;
 6. permitting any person to share in the fees for professional services, other than: a partner, employee, associate in a professional firm or corporation, subcontractor

or consultant. This prohibition shall include any arrangement or agreement whereby the amount received in payment for furnishing space, facilities, equipment, or personnel services used by a professional licensee constitutes a percentage of or is otherwise dependent upon the income or receipts of the licensee from such practice. This provision shall apply in lieu of Section 29.1(b)(4) of this Part;

7. accepting any form of compensation from more than one party for services on the same project without fully disclosing the circumstances and receiving approval from all interested parties; or
8. participating as a member, advisor or employee or a government body in those actions or deliberations which pertain to services provided by the practitioner or his or her organization for such government body.

b. Unprofessional conduct shall not be construed to include:

1. the employment, with the knowledge of the client, of qualified consultants to perform work in which the consultant has special expertise. This provision shall apply in conjunction with Section 29.1(b)(9) of this Part; and
2. participation as a delegator, or delegatee in delegating or accepting delegation, through an intermediate entity not authorized to provide professional design services, of specifically defined work involving the performance of a design function requiring a professional license, under the following terms, conditions and limitations:
 - i. such specifically defined design work shall be limited to project components ancillary to the main components of the project;
 - ii. the delegator shall specify in writing to the delegatee all parameters which the design must satisfy;
 - iii. the design function shall be required to be performed in accordance with performance specifications established by the delegator;
 - iv. the delegatee shall be required to be licensed or otherwise legally authorized to perform the design work involved and shall be required to sign and certify any design prepared;
 - v. the delegator shall be required to review and approve the design submitted by the delegatee for conformance with the established specifications and parameters and such determination shall be in writing; and
 - vi. the delegator shall be required to determine that the design prepared by the delegatee conforms to the overall project design and can be integrated into such design and such determination shall be in writing.
3. As used in paragraph (2) of this subdivision:
 - i. *Delegator* means a primary design team or team of design professionals which may be composed of professional engineers, land surveyors, architects and landscape architects acting either alone or in combination,

- licensed and registered in accordance with Articles 145, 147 or 148 of the Education Law, and authorized to provide the services being delegated.
- ii. *Intermediate entity* means a person or entity, typically a contractor or subcontractor, responsible for performing the work under the contract for construction.
 - iii. *Delegatee* means a design professional, licensed and registered in accordance with Articles 145, 147 or 148 of the Education Law, who is employed or retained by the intermediate entity to produce design work in compliance with the performance requirements and parameters specified by a delegator.
 - iv. *Certify* means a written statement by a licensee confirming responsibility for the work and attesting that the work prepared meets the specifications (as well as conforming to governing codes applicable at the time the work was prepared), and conforms to prevailing standards of practice.
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- End of Excerption from Part 29 -



4. Case Studies – Violations and Disciplinary Actions

The following is excerpted from [the website of the New York Office of the Professions](#):

New York's Professional Discipline System

To ensure public protection in New York State, the New York State Education Department's Office of the Professions (OP) investigates and prosecutes professional misconduct in all professions except medicine (see [more information](#) about this exception). Professional misconduct is the failure of a licensed professional to meet expected standards of practice.

The Board of Regents, which licenses individuals in 44 professions defined in Education Law, is responsible for the final disposition of all disciplinary matters. You may [search](#) our site by name or by month of action for summaries of final disciplinary actions.

Professional misconduct is defined in Education Law and in the [Rules of the Board of Regents](#). Professional misconduct includes the following:

- Engaging in acts of gross incompetence or gross negligence on a single occasion, or negligence or incompetence on more than one occasion
- Permitting or aiding an unlicensed person to perform activities requiring a license
- Refusing a client or patient service because of race, creed, color, or national origin
- Practicing beyond the scope of the profession
- Releasing confidential information without authorization
- Being convicted of a crime
- Failing to return or provide copies of records on request
- Being sexually or physically abusive
- Abandoning or neglecting a patient in need of immediate care
- Performing unnecessary work or unauthorized services
- Practicing under the influence of alcohol or other drugs

A range of penalties that includes censure and reprimand, fines (up to \$10,000 for each violation), suspensions and/or probationary terms may be imposed on licensees who have committed misconduct. The [Board of Regents](#) takes final action on the most serious cases of misconduct. In severe cases of misconduct, the Regents may revoke the professional's license. Information on uncontested determinations in which a licensee has been assessed a fine for committing an infraction of a minor and technical nature is available by phone: 518-474-3817, fax: 518-474-1449 or e-mail: op4info@mail.nysed.gov, or by writing to the Office of the Professions.

OP's [Professional Assistance Program](#) allows licensees who abuse alcohol or other drugs to surrender their licenses voluntarily and confidentially while progressing through an acceptable course of treatment; it is available to licensees who have not harmed clients. Successful completion of the program may act as an alternative to disciplinary action.

OP also investigates [allegations of illegal \(unlicensed\) practice](#) in all 44 licensed professions, including medicine. Practicing a profession without a license and current registration is a felony in New York State.

Case Studies

The website of the New York Office of the Professions contains summary information of disciplinary actions taken against licensees by the Board of Regents in New York State since January 1, 1994 (<http://www.op.nysed.gov/rasearch.htm>). You may search for an individual by last name or review an entire month's summary by the date of the action. In the period between January 2003 and July 2005, there are thirty-three (33) settled cases of disciplinary actions against licensees who violated Board Laws and Rules. Three (3) out of the thirty-three (33) cases resulted in the surrender of the license while the remaining resulted in the suspension or probation of the license in addition to fines. Among thirty-three (33) individuals who received disciplinary action, thirty (30) were Professional Engineers and three (3) Land Surveyors. The following list is compiled from the public records for the period between January 2003 and July 2005:

Violations resulted in the surrender or revocation of the license

Russell Thomas Brown, Sayreville, NJ

Profession: Professional Engineer; Lic. No. 064140; Cal. No. 22271

Regents Action Date: July 22, 2005

Action: Application to surrender license granted.

Summary: Licensee did not contest the charge of having been convicted of committing conduct constituting a crime under the law of another jurisdiction, which, if committed within this state, would constitute a crime under New York State law.



Nanda Kumar Chakrabarti, Cherry Hill, NJ

Profession: Professional Engineer; Lic. No. 065819; Cal. No. 21528

Regents Action Date: November 5, 2004

Action: Application to surrender license granted.

Summary: Licensee admitted to the charge of having been convicted of 2 counts of Bribe Receiving in the 3rd Degree and 2 counts of Criminal Solicitation in the 4th Degree.

Nicholas Joseph Casselano, Rego Park, NY

Profession: Professional Engineer; Lic. No. 056964; Cal. No. 21483

Regents Action Date: May 18, 2004

Action: Application to surrender license granted.

Summary: Licensee did not contest the charge of failing on three separate occasions to prepare and maintain, for at least six years, written evaluations of plans and specifications that were signed and sealed by him, but not prepared by him or an employee, under his direct supervision.

Violations resulted in the suspension of the license and probation

Roland Scott Draper, Hasbrouck Heights, NJ

Profession: Professional Engineer; Lic. No. 059264; Cal. No. 21989

Regents Action Date: May 17, 2005

Action: Application for consent order granted; Penalty agreed upon: 1 month actual suspension,

23 months stayed suspension, 2 years probation, \$5,000 fine.

Summary: Licensee admitted to the charges of being convicted of Combination in Restraint of Trade and Competition, a class E felony.

Roderick N. Cobane, Schuyler Falls, NY

Profession: Land Surveyor; Lic. No. 049544; Cal. No. 20372

Regents Action Date: December 17, 2004

Action: Found guilty of professional misconduct; Penalty: 24 month suspension, execution of last 12 months of suspension stayed, probation 2 years.

Summary: Licensee was found guilty of submitting final maps with an embossed seal to clients that did not depict a legend or closed traverses, and not retaining records of his work for another client for at least six years.

A.D. Engineering Service, P.C., 1369 Richmond Court, East Meadow, NY 11554

Profession: Professional Engineering; Cal. No. 21627

Regents Action Date: November 5, 2004

Action: Application for consent order granted; Penalty agreed upon: 24 month suspension, execution of last 21 months of suspension stayed, probation 24 months.

Summary: Respondent did not contest the charge of failing to maintain, for at least six years, thorough written professional evaluations of the professional services represented by plans and specifications that were signed and sealed by an individual in his capacity as professional engineer and president of the professional corporation, but which were not prepared by that professional engineer or by an employee under his direct supervision.

John Thomas Capelli, Ballston Spa, NY

Profession: Professional Engineer; Lic. No. 050941; Cal. No. 21011

Regents Action Date: November 5, 2004

Action: Application for consent order granted; Penalty agreed upon: Suspension for no less than 1 year and until terminated as set forth in consent order application – upon termination of suspension, probation 2 years to commence upon return to practice.

Summary: Licensee admitted to charge of having been convicted of: Reckless Driving, Driving While Intoxicated, Operating a Motor Vehicle While Revoked, and Aggravated Unlicensed Operation of a Motor Vehicle in the 1st Degree and admitted to charge of lying on Registration Applications.

Alexander Deutsch, East Meadow, NY

Profession: Professional Engineer; Lic. No. 073204; Cal. No. 21626

Regents Action Date: November 5, 2004

Action: Application for consent order granted; Penalty agreed upon: 24 month suspension, execution of last 21 months of suspension stayed, probation 24 months, \$5,000 fine.

Summary: Licensee did not contest the charge of failing to maintain, for at least six years, thorough written professional evaluations of the professional services represented by plans and specifications that were signed and sealed by him, but which were not prepared by him or by an employee under his direct supervision.

Gaspare Rosario Santoro, Staten Island, NY

Profession: Professional Engineer; Lic. No. 045601; Cal. No. 21695

Regents Action Date: November 5, 2004

Action: Application for consent order granted; Penalty agreed upon: 24 month suspension, execution of last 23 months of suspension stayed, probation 24 months, \$5,000 fine.

Summary: Licensee did not contest the charge of grossly negligent failure to comply with a substantial provision of local laws governing the practice of the profession of architecture.

Kenneth V. Rocco, Penfield, NY

Profession: Professional Engineer; Lic. No. 072161; Cal. No. 21275

Regents Action Date: September 10, 2004

Action: Application for consent order granted; Penalty agreed upon: Suspension until terminated as set forth in consent order application - upon termination of suspension, probation 2 years, \$1,000 fine.

Summary: Licensee admitted to the charge of having been convicted of three counts of Operating a Motor Vehicle While Under the Influence of Alcohol, and admitted to charge of falsely answering "no" on his re-registration application to a question about convictions when he knew he had a conviction for the aforesaid crime.

Douglas Calvin Lane, Keyport, NJ

Profession: Professional Engineer; Lic. No. 073324; Cal. No. 21211

Regents Action Date: March 23, 2004

Action: Application for consent order granted; Penalty agreed upon: 24 month suspension, execution of last 21 months of suspension stayed, probation 2 years, \$1,000 fine.

Summary: Licensee admitted to the charge of having been convicted of Criminal Facilitation in the 4th Degree.

Douglas B. Woessner, Highpoint, NC

Profession: Professional Engineer; Lic. No. 056810; Cal. No. 20484

Regents Action Date: June 17, 2003

Action: Application for consent order granted; Penalty agreed upon: 3 year suspension.

Summary: Licensee did not contest the charge of failing to properly supervise inspectors who were conducting controlled inspections under his supervision during the erection of a parking structure in Queens, New York between June 25, 1995 to February 6, 1996.

Charles Edmund Marino, Bronxville, NY

Profession: Professional Engineer; Lic. No. 046746; Cal. No. 20138

Regents Action Date: February 11, 2003

Action: Application for consent order granted; Penalty agreed upon: 3 year suspension, execution of last 2 years of suspension stayed, probation 3 years, \$10,000 fine, 100 hours of public service.

Summary: Licensee admitted to charge of having been convicted of Offering a False Instrument for Filing in the 1st Degree.

Violations resulted in the probation

Raynold Horace Forbes, Brooklyn, NY

Profession: Professional Engineer; Lic. No. 073559; Cal. No. 21738

Regents Action Date: July 22, 2005

Action: Application for consent order granted; Penalty agreed upon: 1 year stayed suspension, 1 year probation, \$1,000 fine.

Summary: Licensee could not successfully defend against the charge that he failed to maintain for at least six years a thorough written evaluation of plans that were not prepared by him or under his direct supervision but to which he had affixed his signature and seal.

Patrick Thomas O’Connell, New York, NY

Profession: Professional Engineer, Lic. No. 055159; Cal. No. 21987

Regents Action Date: June 21, 2005

Action: Application for consent order granted; Penalty agreed upon: 1 year stayed suspension, 1 year probation, \$2,000 fine.

Summary: Licensee did not contest the charge of failing to recognize that a building inspected by him required a repair and maintenance program in order to render the building safe.

Ronald Staub, Webster, NY

Profession: Land Surveyor; Lic. No. 044621; Cal. No. 21355

Regents Action Date: May 17, 2005

Action: Application for consent order granted; Penalty agreed upon: 1 year stayed suspension, 1 year probation, \$1,000 fine.

Summary: Licensee did not contest the charges of negligently naming a re-dated five-year-old survey map as an “Instrument Survey Map” and failing to take and/or maintain adequate field notes.

Meir E. Lieblich, Marlboro, NJ

Profession: Professional Engineer; Lic. No. 051147; Cal. No. 21547

Regents Action Date: January 11, 2005

Action: Application for consent order granted; Penalty agreed upon: 1 year stayed suspension, probation 1 year, \$1,000 fine.

Summary: Licensee did not contest the charge of affixing his professional seal to an incomplete TR-1 (statement of professional responsibility). He then gave the TR-1 to a third person who entered information about controlled inspections and the respondent’s initials indicating that respondent assumed responsibility, and such third person filed it with the New York City Department of Buildings.

Raymond Edward Sickles, Greenwich, NY

Profession: Professional Engineer; Lic. No. 071072; Cal. No. 21740

Regents Action Date: January 11, 2005

Action: Application for consent order granted; Penalty agreed upon: 2 year stayed suspension, probation 2 years, \$1,500 fine.

Summary: Licensee did not contest the charge of failing to maintain, for at least six years, a thorough written evaluation of the professional services represented by plans and specifications that were signed and sealed by him, but which were not prepared by him or an employee under his direct supervision.

Michael Dubem Iwuchukwu a/k/a Michael D. Iwuchukwu, Poughkeepsie, NY

Profession: Professional Engineer, Lic. No. 071795; Cal. No. 21834

Regents Action Date: December 17, 2004

Action: Application for consent order granted; Penalty agreed upon: 2 year stayed suspension, probation 2 years, \$1,000 fine.

Summary: Licensee admitted to the charge of having been convicted of Driving While Intoxicated and, subsequent to said conviction, falsely answering “no” on his re-registration application to the question regarding the existence of any convictions since he had last registered as a professional engineer in the State of New York.

William C. Mack, Ocean Beach, NY

Profession: Professional Engineer; Lic. No. 066354; Cal. No. 21661

Regents Action Date: December 17, 2004

Action: Application for consent order granted; Penalty agreed upon: 2 year stayed suspension, probation 2 years, \$5,000 fine.

Summary: Licensee did not contest the charge of failing to maintain, for at least six years, a thorough written evaluation of plans that were not prepared by him or by an employee under his direct supervision, and to which he had affixed his signature and professional seal.

David Anthony Daigler, Clarence Center, NY

Profession: Professional Engineer; Lic. No. 047792; Cal. No. 21306

Regents Action Date: September 10, 2004

Action: Application for consent order granted; Penalty agreed upon: 2 year suspension, execution of suspension stayed, probation 2 years, \$1,000 fine.

Summary: Licensee admitted to the charge of affixing seal to documents where professional services had not been performed.

Ann C. Hickey, New York, NY

Profession: Professional Engineer; Lic. No. 065430; Cal. No. 20786

Regents Action Date: September 10, 2004

Action: Application for consent order granted; Penalty agreed upon: Censure and Reprimand, probation 1 year, \$1,000 fine.

Summary: Licensee did not contest the charge of filing work permit applications with the New York City Department of Buildings that she knew had not been properly notarized.

Carl E. Thompson, Jr., Athens, NY

Profession: Professional Engineer; Lic. No. 077214; Cal. No. 21684

Regents Action Date: September 10, 2004

Action: Application for consent order granted; Penalty agreed upon: Censure and Reprimand, probation 1 year, \$500 fine.

Summary: Licensee admitted to the charge of having been found guilty by the Tennessee Board of Architectural and Engineering Examiners of professional misconduct.

Ross Allen Winglovitz, Middletown, NY

Profession: Professional Engineer; Lic. No. 071701; Cal. No. 21230

Regents Action Date: July 21, 2004

Action: Application for consent order granted; Penalty agreed upon: 1 year suspension, execution of suspension stayed, probation 1 year, \$1,000 fine.

Summary: Licensee did not contest the charge of failure to accurately measure the location of a septic system on premises located in the Town of Cornwall, Orange County, New York and,

after notification, failure to promptly prepare plans for remediation of the problems resulting therefrom.

Francis A. Lashway, Jr., East Greenbush, NY

Profession: Profession: Professional Engineer; Lic. No. 064314; Cal. No. 21326

Regents Action Date: July 21, 2004

Action: Application for consent order granted; Penalty agreed upon: 1 year suspension, execution of suspension stayed, probation 1 year, \$2,000 fine.

Summary: Licensee did not contest the charge of not preparing and retaining thorough written evaluations for three plans.

Edward J. Conboy, Jr., Evans, NY

Profession: Profession: Professional Engineer; Lic. No. 052450; Cal. No. 21512

Regents Action Date: July 21, 2004

Action: Application for consent order granted; Penalty agreed upon: 2 year suspension, execution of suspension stayed, probation 2 years, \$750 fine.

Summary: Licensee admitted to the charge of Driving While Intoxicated, a felony.

S. Bernard Dickson, Harwich, MA

Profession: Professional Engineer; Lic. No. 061583; Cal. No. 21502

Regents Action Date: June 22, 2004

Action: Application for consent order granted; Penalty agreed upon: 1 year suspension, execution of suspension stayed, probation 1 year, \$500 fine.

Summary: Licensee admitted to the charge of having been found guilty by the Massachusetts Board of Professional Engineers and Board of Professional Land Surveyors of signing and sealing plans prepared by another without preparing his own evaluations and written report.

Chi-Shing Aaron Cheung, Plainview, NY

Profession: Professional Engineer; Lic. No. 065635; Cal. No. 21155

Regents Action Date: February 23, 2004

Action: Application for consent order granted; Penalty agreed upon: 2 year suspension, execution of suspension stayed, probation 2 years, \$2,500 fine.

Summary: Licensee did not contest the charge of affixing his signature and professional seal to four different sets of engineering plans which were neither prepared by him nor by an employee under his supervision, and for which he had not prepared thorough written evaluations of the professional services represented by said plans.

Wei Jwo Lin, Flushing, NY

Profession: Professional Engineer; Lic. No. 050298; Cal. No. 21160

Regents Action Date: February 23, 2004

Action: Application for consent order granted; Penalty agreed upon: 1 year suspension, execution of suspension stayed, probation 1 year, \$2,500 fine.

Summary: Licensee admitted to the charge of affixing his signature and professional seal to engineering plans which were neither prepared by him nor by an employee under his supervision and for which he had not prepared a thorough written evaluation of the professional services represented by said plans.

Shea-Kei Mak, Yorktown Heights, NY

Profession: Professional Engineer; Lic. No. 067335; Cal. No. 20558

Regents Action Date: November 14, 2003

Action: Found guilty of professional misconduct; Penalty: 1 year suspension, execution of suspension stayed.

Summary: Licensee was found to be guilty of having been convicted of Conspiracy to Commit Offenses Against the United States, a felony.

Richard P. Benko, East Greenbush, NY

Profession: Professional Engineer; Lic. No. 053116; Cal. No. 20883

Regents Action Date: September 12, 2003

Action: Application for consent order granted; Penalty agreed upon: 1 year suspension, execution of suspension stayed, probation 1 year, \$1,000 fine.

Summary: Licensee did not contest the charge of signing and stamping a Certificate of Construction Compliance without viewing the septic system.

William J. Sheeley, Canisteo, NY

Profession: Land Surveyor; Lic. No. 033125; Cal. No. 20326

Regents Action Date: July 18, 2003

Action: Application for consent order granted; Penalty agreed upon: 1 year suspension, execution of suspension stayed, probation 1 year to commence if and when return to practice, \$2,500 fine.

Summary: Licensee did not contest the charge of failing to properly locate the surveyed properties and failure to do proper research.

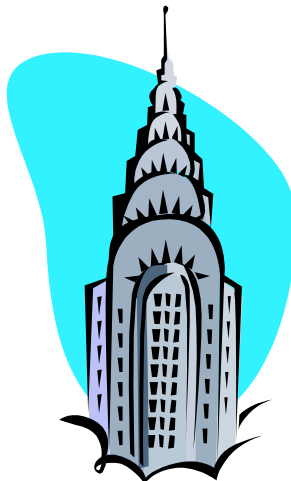
Ainsley Ainsworth Ferraro, Brooklyn, NY

Profession: Professional Engineer; Lic. No. 062079; Cal. No. 20398

Regents Action Date: March 25, 2003

Action: Application for consent order granted; Penalty agreed upon: 1 year suspension, execution of suspension stayed, probation 1 year, \$1,000 fine.

Summary: Licensee did not contest the charge of willfully submitting an application to the New York City Department of Buildings which contained false information concerning a proposed occupancy.



5. Business Corporation Law Article 15

The following is excerpted from Article 15 of New York Business Corporation Law:

Article 15 - Professional Service Corporations

- §1501 - Definitions.
 - §1502 - Corporations organized under other provisions of law.
 - §1503 - Organization.
 - §1504 - Rendering of professional service.
 - §1505 - Professional relationships and liabilities.
 - §1506 - Purposes of incorporation.
 - §1507 - Issuance of shares.
 - §1508 - Directors and officers.
 - §1509 - Disqualification of shareholders, directors, officers and employees.
 - §1510 - Enacted without section heading.
 - §1511 - Transfer of shares.
 - §1512 - Corporate name.
 - §1513 - Business corporation law applicable.
 - §1514 - Triennial statement.
 - §1515 - Regulation of professions.
 - §1516 - Corporate mergers, consolidations and other reorganizations.
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§ 1501. Definitions.

As used in this article, unless the context otherwise requires, the term:

- (a) "licensing authority" means the regents of the university of the state of New York or the state education department, as the case may be, in the case of all professions licensed under title eight of the education law, and the appropriate appellate division of the supreme court in the case of the profession of law.
- (b) "Profession" includes any practice as an attorney and counselor-at-law, or as a licensed physician, and those occupations designated in title eight of the education law.
- (c) "Professional service" means any type of service to the public which may be lawfully rendered by a member of a profession within the purview of his profession.
- (d) "Professional service corporation" means a corporation organized under this article.
- (e) "Officer" does not include the secretary or an assistant secretary of a corporation having only one shareholder.

§ 1502. Corporations organized under other provisions of law.

The provisions of this article shall not apply to corporations heretofore or hereafter duly organized under any other provision of law.

§ 1503. Organization.

- (a) Notwithstanding any other provision of law, one or more individuals duly authorized by law to render the same professional service within the state may organize, or cause to be organized, a professional service corporation for pecuniary profit under this article for the purpose of rendering the same professional service, except that one or more individuals

duly authorized by law to practice professional engineering, architecture, landscape architecture or land surveying within the state may organize, or cause to be organized, a professional service corporation for pecuniary profit under this article for the purpose of rendering such professional services as such individuals are authorized to practice.

- (b) The certificate of incorporation of a professional service corporation shall meet the requirements of this chapter and (i) shall state the profession or professions to be practiced by such corporation and the names and residence addresses of all individuals who are to be the original shareholders, directors and officers of such corporation, and (ii) shall have attached thereto a certificate or certificates issued by the licensing authority certifying that each of the proposed shareholders, directors and officers is authorized by law to practice a profession which the corporation is being organized to practice and, if applicable, that one or more of such individuals is authorized to practice each profession which the corporation will be authorized to practice.
- (c) A certified copy of the certificate of incorporation and of each amendment thereto shall be filed by the corporation with the licensing authority within thirty days after the filing of such certificate or amendment with the department of state.
- (d) A professional service corporation, other than a corporation authorized to practice law, shall be under the supervision of the regents of the university of the state of New York and be subject to disciplinary proceedings and penalties, and its certificate of incorporation shall be subject to suspension, revocation or annulment for cause, in the same manner and to the same extent as is provided with respect to individuals and their licenses, certificates, and registrations in title eight of the education law relating to the applicable profession. Notwithstanding the provisions of this subdivision, a professional service corporation authorized to practice medicine shall be subject to the prehearing procedures and hearing procedures as is provided with respect to individual physicians and their licenses in Title II-A of article two of the public health law.
- (e) A corporation authorized to practice law shall be subject to the regulation and control of, and its certificate of incorporation shall be subject to suspension, revocation or annulment for cause by, the appellate division of the supreme court and the court of appeals in the same manner and to the same extent provided in the judiciary law with respect to individual attorneys and counselors-at-law. Such corporation need not qualify for any certification under section four hundred sixty-four of the judiciary law, take an oath of office under section four hundred sixty-six of such law or register under section four hundred sixty-seven of such law.
- (f) The order of suspension, revocation or annulment of the certificate of incorporation of a professional service corporation pursuant to subdivisions (e) and (f) of this section shall be effective upon the filing of such order with the department of state.
- (g) The practices of creative arts therapy, marriage and family therapy, mental health counseling, and psychoanalysis shall not be deemed the same professional service for the purpose of paragraph (a) of this section, notwithstanding that such practices are all licensed under article one hundred sixty-three of the education law.

§ 1504. Rendering of professional service.

- (a) No professional service corporation may render professional services except through individuals authorized by law to render such professional services as individuals.
- (b) Each final plan and report made or issued by a corporation practicing professional engineering, architecture, landscape architecture or land surveying shall bear the name

and seal of one or more professional engineers, architects, landscape architects, or land surveyors, respectively, who are in responsible charge of such plan or report.

- (c) Each report, diagnosis, prognosis, and prescription made or issued by a corporation practicing medicine, dentistry, podiatry, optometry, ophthalmic dispensing, veterinary medicine, pharmacy, nursing, physiotherapy or chiropractic shall bear the signature of one or more physicians, dentists, podiatrists, optometrists, ophthalmic dispensers, veterinarians, pharmacists, nurses, physiotherapists, or chiropractors, respectively, who are in responsible charge of such report, diagnosis, prognosis, or prescription.
- (d) Each record, transcript, report and hearing report prepared by a corporation practicing certified shorthand reporting shall bear the signature of one or more certified shorthand reporters who are in responsible charge of such record, transcript, report, or hearing report.
- (e) Each corporation practicing public accounting or certified public accounting shall maintain records indicating the identity of each public accountant or certified public accountant, respectively, who was responsible for each report or statement which is issued prepared or examined by such corporation.
- (f) Each opinion prepared by a corporation practicing law shall bear the signature of one or more attorneys and counsellors-at-law who are in responsible charge of such opinion.
- (g) In addition to the requirements in subdivisions (b) through (f), inclusive, each document prepared by a corporation which under the rules, regulations, laws or customs of the applicable profession is required to bear the signature of an individual in responsible charge of such document, shall be signed by one or more such individuals.

§ 1505. Professional relationships and liabilities.

- (a) Each shareholder, employee or agent of a professional service corporation shall be personally and fully liable and accountable for any negligent or wrongful act or misconduct committed by him or by any person under his direct supervision and control while rendering professional services on behalf of such corporation.
- (b) The relationship of an individual to a professional service corporation with which such individual is associated, whether as shareholder, director, officer, employee or agent, shall not modify or diminish the jurisdiction over him of the licensing authority and in the case of an attorney and counsellor-at-law, the other courts of this state.

§ 1506. Purposes of incorporation.

No professional service corporation shall engage in any business other than the rendering of the professional services for which it was incorporated; provided that such corporation may invest its funds in real estate, mortgages, stocks, bonds or any other type of investments.

§ 1507. Issuance of shares.

A professional service corporation may issue shares only to individuals who are authorized by law to practice in this state a profession which such corporation is authorized to practice and who are or have been engaged in the practice of such profession in such corporation or a predecessor entity, or who will engage in the practice of such profession in such corporation within thirty days of the date such shares are issued. No shareholder of a professional service corporation shall enter into a voting trust agreement, proxy, or any other type agreement vesting in another person, other than another shareholder of the same corporation or a person who would be eligible to become a shareholder if employed by the corporation, the authority to exercise voting power of

any or all of his shares. All shares issued, agreements made, or proxies granted in violation of this section shall be void.

§ 1508. Directors and officers.

No individual may be a director or officer of a professional service corporation unless he is authorized by law to practice in this state a profession which such corporation is authorized to practice and is either a shareholder of such corporation or engaged in the practice of his profession in such corporation.

§ 1509. Disqualification of shareholders, directors, officers and employees.

If any shareholder, director, officer or employee of a professional service corporation who has been rendering professional service to the public becomes legally disqualified to practice his profession within this state, he shall sever all employment with, and financial interests (other than interests as a creditor) in, such corporation forthwith or as otherwise provided in section 1510. All provisions of law regulating the rendering of professional services by a person elected or appointed to a public office shall be applicable to a shareholder, director, officer and employee of such corporation in the same manner and to the same extent as if fully set forth herein. Such legal disqualification to practice his profession within this state shall be deemed to constitute an irrevocable offer by the disqualified shareholder to sell his shares to the corporation, pursuant to the provisions of section 1510 or of the certificate of incorporation, by-laws or agreement among the corporation and all shareholders, whichever is applicable. Compliance with the terms of such offer shall be specifically enforceable in the courts of this state. A professional service corporation's failure to enforce compliance with this provision shall constitute a ground for forfeiture of its certificate of incorporation and its dissolution.

§ 1510.

(a) Death or disqualification of shareholders.

A professional service corporation shall purchase or redeem the shares of a shareholder in case of his death or disqualification pursuant to the provisions of section 1509, within six months after the appointment of the executor or administrator or other legal representative of the estate of such deceased shareholder, or within six months after such disqualification, at the book value of such shares as of the end of the month immediately preceding the death or disqualification of the shareholder as determined from the books and records of the corporation in accordance with its regular method of accounting. The certificate of incorporation, the by-laws of the corporation or an agreement among the corporation and all shareholders may modify this section by providing for a shorter period of purchase or redemption, or an alternate method of determining the price to be paid for the shares, or both. If the corporation shall fail to purchase or redeem such shares within the required period, a successful plaintiff in an action to recover the purchase price of such shares shall also be awarded reasonable attorneys' fees and costs. Limitations on the purchase or redemption of shares set forth in section five hundred thirteen shall not apply to the purchase or redemption of shares pursuant to this section. Nothing herein contained shall prevent a corporation from paying pension benefits or other deferred compensation to or on behalf of a former or deceased officer, director or employee thereof as otherwise permitted by law. The provisions of this section shall not be deemed to require the purchase of the shares of a disqualified shareholder where the period of disqualification is for less than six months, and the shareholder again becomes eligible to practice his profession within six months from the date of disqualification.

- (b) Notwithstanding the provisions of subdivision (a), the corporation shall not be required to purchase or redeem the shares of a deceased or disqualified shareholder if such shares, within the time limit prescribed by subdivision (a), are sold or transferred to another professional pursuant to the provisions of section 1511.

§ 1511. Transfer of shares.

No shareholder of a professional service corporation may sell or transfer his shares in such corporation except to another individual who is eligible to have shares issued to him by such corporation or except in trust to another individual who would be eligible to receive shares if he were employed by the corporation. Nothing herein contained shall be construed to prohibit the transfer of shares by operation of law or by court decree. No transferee of shares by operation of law or court decree may vote the shares for any purpose whatsoever except with respect to corporate action under section nine hundred nine and section one thousand one. The restriction in the preceding sentence shall not apply, however, where such transferee would be eligible to have shares issued to him if he were an employee of the corporation and, if there are other shareholders, a majority of such other shareholders shall fail to redeem the shares so transferred, pursuant to section 1510, within sixty days of receiving written notice of such transfer. Any sale or transfer, except by operation of law or court decree or except for a corporation having only one shareholder, may be made only after the same shall have been approved by the board of directors, or at a shareholders' meeting specially called for such purpose by such proportion, not less than a majority, of the outstanding shares as may be provided in the certificate of incorporation or in the by-laws of such professional service corporation. At such shareholders' meeting the shares held by the shareholder proposing to sell or transfer his shares may not be voted or counted for any purpose, unless all shareholders consent that such shares be voted or counted. The certificate of incorporation or the by-laws of the professional service corporation, or the professional service corporation and the shareholders by private agreement, may provide, in lieu of or in addition to the foregoing provisions, for the alienation of shares and may require the redemption or purchase of such shares by such corporation at prices and in a manner specifically set forth therein. The existence of the restrictions on the sale or transfer of shares, as contained in this article and, if applicable, in the certificate of incorporation, by-laws, stock purchase or stock redemption agreement, shall be noted conspicuously on the face or back of every certificate for shares issued by a professional service corporation. Any sale or transfer in violation of such restrictions shall be void.

§ 1512. Corporate name.

- (a) Notwithstanding any other provision of law, the name of a professional service corporation may contain any word which, at the time of incorporation, could be used in the name of a partnership practicing a profession which the corporation is authorized to practice, and may not contain any word which could not be used by such a partnership.
- (b) Provided, however, the name of a professional service corporation may not contain the name of a deceased person unless (1) such person's name was part of the corporate name at the time of such person's death; or (2) such person's name was part of the name of an existing partnership and at least two-thirds of such partnership's partners become shareholders of the corporation.
- (c) Such corporate name shall end with the words "Professional Corporation" or the abbreviation "P.C." The provisions of paragraph one of subdivision (a) of section three hundred one shall not apply to a professional service corporation.

§ 1513. Business corporation law applicable.

This chapter, except article thirteen and article fifteen-A, shall be applicable to a professional service corporation except to the extent that the provisions thereof conflict with this article. A professional service corporation may consolidate or merge only with another corporation organized under this article or authorized to do business in this state under article fifteen-A of this chapter or authorized and registered to practice the same profession pursuant to the applicable provisions of subdivision six of section seventy-two hundred nine of the education law or subdivision four of section seventy-three hundred seven of the education law, or may be a member of a professional service limited liability company, a foreign professional service limited liability company, a registered limited liability partnership or foreign limited liability partnership, and only if all of the professions practiced by such corporations, limited liability companies or limited liability partnerships could be practiced by a single corporation organized under this article.

§ 1514. Triennial statement.

Each professional service corporation shall, at least once every three years on or before the date prescribed by the licensing authority, furnish a statement to the licensing authority listing the name and residence address of each shareholder, director and officer of such corporation and certifying that all such individuals are authorized by law in this state to practice a profession which such corporation is authorized to practice. The statement shall be signed by the president or any vice-president of the corporation and attested to by the secretary or any assistant secretary of the corporation.

§ 1515. Regulation of professions.

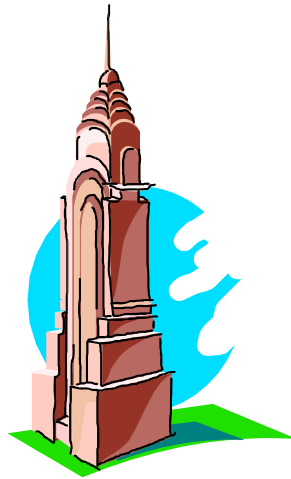
This article shall not repeal, modify or restrict any provision of the education law or the judiciary law regulating the professions referred to therein except to the extent in conflict herewith.

§ 1516. Corporate mergers, consolidations and other reorganizations.

Notwithstanding any inconsistent provision of this article, a professional service corporation, pursuant to the provisions of article nine of this chapter, may be merged or consolidated with another corporation formed pursuant to the provisions of this chapter or with a corporation authorized and registered to practice the same profession pursuant to the applicable provisions of subdivision six of section seventy-two hundred nine of the education law (engineer or land surveyor) or subdivision four of section seventy-three hundred seven of the education law (architect) of article one hundred forty-five of the education law, or with a foreign corporation, or may be otherwise reorganized, provided that the corporation which survives or which is formed pursuant thereto is a professional service corporation or a foreign professional service corporation practicing the same profession or professions in this state or the state of incorporation or, if one of the original corporations is authorized to practice pursuant to the provisions of either subdivision six of section seven thousand two hundred nine or subdivision four of section seven thousand three hundred seven, a corporation authorized and registered to practice the same profession pursuant to the applicable provisions of subdivision six of section seventy-two hundred nine of the education law (engineer or land surveyor) or subdivision four of section seventy-three hundred seven of the education law (architect) of article one hundred forty-five of the education law. The restrictions on the issuance, transfer or sale of shares of a professional service corporation shall be suspended for a period not exceeding thirty days with respect to any issuance, transfer or sale of shares made pursuant to such merger, consolidation or reorganization, provided that (i) no person who would not be eligible to be a shareholder in the

absence of this section shall vote the shares of or receive any distribution from such corporation; (ii) after such merger, consolidation or reorganization, any professional service corporation which survives or which is created thereby shall be subject to all of the provisions of this article, and (iii) shares thereafter only may be held by persons who are eligible to receive shares of such professional service corporation or such other corporation authorized and registered to practice the same profession pursuant to the applicable provisions of subdivision six of section seventy-two hundred nine of the education law (engineer or land surveyor) or subdivision four of section seventy-three hundred seven of the education law (architect) of article one hundred forty-five of the education law, which survives. Nothing herein contained shall be construed as permitting the practice of a profession in this state by a corporation which is not incorporated pursuant to the provisions of this article or authorized to do business in this state pursuant to the provisions of article fifteen-A of this chapter or authorized and registered to practice a profession pursuant to the applicable provisions of article one hundred forty-five of the education law. For the purposes of this section, other reorganizations shall be limited to those reorganizations defined in paragraph one of subsection (a) of section three hundred sixty-eight of the internal revenue code.

- End of Excerpt from Article 15 -



6. Business Corporation Law Article 15-A

The following is excerpted from Article 15-A of New York Business Corporation Law:

Article 15-A - Foreign Professional Service Corporations

- §1525 - Definitions.
 - §1526 - Rendering of professional service.
 - §1527 - Professional relationships and liabilities.
 - §1528 - Foreign professional service corporation.
 - §1529 - Business corporation law applicable.
 - §1530 - Filing requirements.
 - §1531 - Annual statement.
 - §1532 - Regulation of professions.
 - §1533 - Licensing of individuals.
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§ 1525. Definitions.

As used in this article, unless the context otherwise requires, the term:

- (a) "Licensing authority" means the regents of the university of the state of New York or the state education department, as the case may be, in the case of all professions licensed under title eight of the education law, and the appropriate appellate division of the supreme court in the case of the profession of law.
- (b) "Profession" includes any practice as an attorney and counsellor-at-law, or as a licensed physician, and those professions designated in title eight of the education law.
- (c) "Professional service" means any type of service to the public which may be lawfully rendered by a member of a profession within the purview of his profession.
- (d) "Foreign professional service corporation" means a professional service corporation, whether or not denominated as such, organized under the laws of a jurisdiction other than this state, all of the shareholders, directors and officers of which are authorized and licensed to practice the profession for which such corporation is licensed to do business; except that all shareholders, directors and officers of a foreign professional service corporation which provides health services in this state shall be licensed in this state.
- (e) "Officer" does not include the secretary or an assistant secretary of a corporation having only one shareholder.

§ 1526. Rendering of professional service.

- (a) No foreign professional service corporation may render professional services in this state except through individuals authorized by law to render such professional services as individuals in this state.
- (b) Each final plan and report made or issued by a foreign professional service corporation practicing professional engineering, architecture, landscape architecture or land surveying shall bear the name and seal of one or more professional engineers, architects, landscape architects, or land surveyors, respectively, who are in responsible charge of such plan or report.
- (c) Each report, diagnosis, prognosis, and prescription made or issued by a foreign professional service corporation practicing medicine, dentistry, podiatry, optometry,

ophthalmic dispensing, veterinary medicine, pharmacy, nursing, physiotherapy or chiropractic shall bear the signature of one or more physicians, dentists, podiatrists, optometrists, ophthalmic dispensers, veterinarians, pharmacists, nurses, physiotherapists, or chiropractors, respectively, who are in responsible charge of such report, diagnosis, prognosis, or prescription.

- (d) Each record, transcript, report and hearing report prepared by a foreign professional service corporation practicing certified shorthand reporting shall bear the signature of one or more certified shorthand reporters who are in responsible charge of such record, transcript, report, or hearing report.
- (e) Each report and statement prepared by a foreign professional service corporation practicing public accounting or certified public accounting shall bear the signature of one or more public accountants or certified public accountants, respectively, who are in responsible charge of such report or statement.
- (f) Each opinion prepared by a foreign professional service corporation practicing law shall bear the signature of one or more attorneys and counsellors-at-law who are in responsible charge of such opinion.
- (g) In addition to the requirements in paragraphs (b) through (f) inclusive herein, each document prepared by a foreign professional service corporation which under the rules, regulations, laws or customs of the applicable profession is required to bear the signature of an individual in responsible charge of such document, shall be signed by one or more such individuals licensed to practice in this state.

§ 1527. Professional relationships and liabilities.

- (a) Each shareholder, employee or agent of a foreign professional service corporation who performs professional services in this state on behalf of the corporation shall be personally and fully liable and accountable for any negligent or wrongful act or misconduct committed by him or by any person under his direct supervision and control while rendering such professional services, and shall bear professional responsibility for compliance by such corporation with all laws, rules and regulations governing the practice of the profession in this state.
- (b) The relationship of an individual to a foreign professional service corporation with which such individual is associated, whether as shareholder, director, officer, employee or agent, shall not modify or diminish the jurisdiction over him of the licensing authority and in the case of an attorney and counsellor-at-law, the other courts of this state.

§ 1528. Foreign professional service corporation.

No foreign professional service corporation shall engage in any business in this state other than the rendering of the professional services for which it is incorporated and is authorized to do business in this state; provided that such corporation may invest its funds in real estate, mortgages, stocks, bonds or any other type of investments.

§ 1529. Business corporation law applicable.

Except for the provisions of sections thirteen hundred three, thirteen hundred four, thirteen hundred sixteen, thirteen hundred seventeen and thirteen hundred twenty, this chapter shall be applicable to a foreign professional service corporation to the extent that the provisions thereof are not in conflict with the provisions of this article. A foreign professional service corporation may practice in this state, or may consolidate or merge with another corporation, or may be a member of a professional service limited liability company, a foreign professional service

limited liability company, a registered limited liability partnership or foreign limited liability partnership, only if all of the professions practiced by such corporations, limited liability companies or limited liability partnerships could be practiced by a single professional service corporation organized in this state; and, further, only if such foreign professional service corporation is domiciled in a state or territory of the United States the laws of which, at the time of application by such corporation under section fifteen hundred thirty of this article, contain a reciprocal provision under which professional service corporations domiciled in this state may similarly apply for the privilege of doing business in any such state or territory; provided further however, that nothing herein shall authorize a foreign professional service corporation practicing professional engineering, land surveying, architecture and/or landscape architecture to be a member or partner of a professional service limited liability company, a foreign professional service limited liability company, a registered limited liability partnership or a foreign limited liability partnership unless all of the shareholders, directors and officers of such foreign professional service corporation are licensed to practice one or more of such professions in this state.

§ 1530. Filing requirements.

- (a) A foreign professional service corporation may apply for authority to do business in this state. An application entitled "Application for Authority of (name of corporation) under Section fifteen hundred thirty of the Business Corporation Law," shall be signed and delivered to the department of state. It shall set forth:
 - (1) The name of the foreign professional service corporation. If the name does not end with the words "Professional Corporation" or the abbreviation "P.C.", it shall in addition to the foregoing set forth the name to be used in this state, ending with the words "Professional Corporation" or the abbreviation "P.C."
 - (2) The jurisdiction and date of its incorporation.
 - (3) A statement of the profession or professions to be practiced in this state and a statement that the foreign professional service corporation is authorized to practice such profession or professions in the jurisdiction of its incorporation.
 - (4) The name, address and license number of each person within the foreign professional service corporation who is licensed to practice the profession or professions in this state.
 - (5) The city, incorporated village or town and the county within this state in which its office is to be located.
 - (6) A designation of the secretary of state as its agent upon whom process against it may be served and the post office address within or without this state to which the secretary of state shall mail a copy of any process against it served upon him.
 - (7) If it is to have a registered agent, his name and address within this state and a statement that the registered agent is to be its agent upon whom process against it may be served.
 - (8) A statement that the foreign professional service corporation has not since its incorporation or since the date its authority to do business in this state was last surrendered, engaged in any activity in this state, or in lieu thereof, the consent of the state tax commission to the filing of the application, which consent shall be attached thereto.

- (b) Attached to the application for authority shall be:
- (1) A certificate by an authorized officer of the jurisdiction of its incorporation that the foreign professional service corporation is an existing corporation.
 - (2) A certificate or certificates issued by the licensing authority that each individual within the corporation intending to practice the profession or professions in this state is licensed to practice said profession or professions in this state. In order to obtain said certificate or certificates, a copy of the certificate of incorporation shall be furnished to the licensing authority.
 - (3) A certificate or certificates issued by the licensing authority in the case of a foreign professional service corporation providing health services that each shareholder, officer and director of the foreign professional service corporation is licensed to practice said profession in this state.
- (c) The fee for filing the application for authority shall be two hundred dollars, payable to the department of state, and the fee for a certificate of authority issued by the state education department shall be fifty dollars.

§ 1531. Annual statement.

Each foreign professional service corporation shall, at least once of each year on or before the date prescribed by the licensing authority, furnish a statement to the licensing authority listing the name and residence address of each shareholder, director, officer and corporate employee licensed by such licensing authority and certifying that such individuals intending to practice a profession which such foreign professional service corporation is authorized to practice in this state are licensed to practice said profession in this state. In the case of a foreign professional service corporation providing health services, such statement shall also certify that each shareholder, officer and director of the corporation is licensed to practice said profession in this state. The statement shall be signed by the president or any vice-president of the corporation and attested to by the secretary or any assistant secretary of the corporation.

§ 1532. Regulation of professions.

- (a) This article shall not repeal, modify or restrict any provision of the education law or the judiciary law or any rules or regulations adopted thereunder regulating the professions referred to therein except to the extent in conflict herewith.
- (b) A foreign professional service corporation, other than a foreign professional service corporation authorized to practice law, shall be under the supervision of the regents of the university of the state of New York and be subject to disciplinary proceedings and penalties, and its authority to do business shall be subject to suspension, revocation or annulment for cause, in the same manner and to the same extent as is provided with respect to individuals and their licenses, certificates, and registrations in title eight of the education law relating to the applicable profession. Notwithstanding the provisions of this subdivision, a foreign professional service corporation authorized to practice medicine shall be subject to the prehearing procedures and hearing procedures as is provided with respect to individual physicians and their licenses in Title II-A of article two of the public health law.
- (c) A foreign professional service corporation authorized to practice law shall be subject to the regulation and control of, and its authority to do business shall be subject to suspension, revocation or annulment for cause by, the appellate division of the supreme court and the court of appeals in the same manner and to the same extent provided in the

judiciary law with respect to individual attorneys and counselors-at-law. Such corporation need not qualify for any certification under section four hundred sixty-four of the judiciary law, take an oath of office under section four hundred sixty-six of such law or register under section four hundred sixty-seven of such law.

§ 1533. Licensing of individuals.

No officer, director, shareholder or employee of a foreign professional service corporation shall practice his or her profession in this state unless such individual is duly licensed to practice such profession in this state.

- End of Excerption from Article 15-A -



7. Limited Liability Company Article 12

The following is excerpted from Article 12 of New York Limited Liability Company Law:

Article 12 - Professional Service Limited Liability Companies

§1201 - Definitions.

§1202 - Limited liability companies organized under other provisions of law.

§1203 - Formation.

§1204 - Rendering of professional service.

§1205 - Professional relationships and liabilities.

§1206 - Purposes of formation.

§1207 - Membership of professional service limited liability companies.

§1208 - (Reserved)

§1209 - Disqualification of members, managers and employees.

§1210 - Death, disqualification or dissolution of members.

§1211 - Transfer of a membership interest.

§1212 - Limited liability company name.

§1213 - Limited liability company act applicable.

§1214 - (Reserved)

§1215 - Regulation of professions.

§1216 - Mergers and consolidations.

§ 1201. Definitions.

As used in this article, unless the context otherwise requires, the term:

- (a) "Licensing authority" means the regents of the university of the state of New York or the state education department, as the case may be, in the case of all professions licensed under title eight of the education law, and the appropriate appellate division of the supreme court in the case of the profession of law.
- (b) "Profession" includes any practice as an attorney and counselor-at-law, or as a licensed physician, and those professions designated in title eight of the education law.
- (c) "Professional" means an individual duly authorized to practice a profession, a professional service corporation, a professional service limited liability company, a foreign professional service limited liability company, a registered limited liability partnership, a foreign limited liability partnership, a foreign professional service corporation or a professional partnership.
- (d) "Professional service" means any type of service to the public that may be lawfully rendered by a member of a profession within the purview of his or her profession.
- (e) "Professional service corporation" means (i) a corporation organized under article fifteen of the business corporation law and (ii) any other corporation organized under the business corporation law or under any other predecessor statute, which is authorized by, or holds a license, certificate, registration or permit issued by, the licensing authority pursuant to the education law to render professional services within this state.
- (f) "Professional service limited liability company" means a limited liability company organized under this article.

- (g) "Foreign professional service corporation" has the meaning given to it in subdivision (d) of section fifteen hundred twenty-five of the business corporation law.
- (h) "Foreign professional service limited liability company" has the meaning given to it in subdivision (a) of section thirteen hundred one of this chapter.
- (i) "Professional partnership" means (1) a partnership without limited partners each of whose partners is a professional authorized by law to render a professional service within this state, (2) a partnership without limited partners each of whose partners is a professional, at least one of whom is authorized by law to render a professional service within this state or (3) a partnership without limited partners authorized by, or holding a license, certificate, registration or permit issued by the licensing authority pursuant to the education law to render a professional service within this state.

§ 1202. Limited liability companies organized under other provisions of law.

The provisions of this article shall not apply to limited liability companies heretofore or hereafter duly formed under any other provision of law.

§ 1203. Formation.

- (a) Notwithstanding the education law or any other provision of law, one or more professionals each of whom is authorized by law to render a professional service within the state, or one or more professionals, at least one of whom is authorized by law to render a professional service within the state, may form, or cause to be formed, a professional service limited liability company for pecuniary profit under this article for the purpose of rendering the professional service or services as such professionals are authorized to practice. With respect to a professional service limited liability company formed to provide medical services as such services are defined in article 131 of the education law, each member of such limited liability company must be licensed pursuant to article 131 of the education law to practice medicine in this state. With respect to a professional service limited liability company formed to provide dental services as such services are defined in article 133 of the education law, each member of such limited liability company must be licensed pursuant to article 133 of the education law to practice dentistry in this state. With respect to a professional service limited liability company formed to provide veterinary services as such services are defined in article 135 of the education law, each member of such limited liability company must be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state. With respect to a professional service limited liability company formed to provide professional engineering, land surveying, architectural and/or landscape architectural services as such services are defined in article 145, article 147 and article 148 of the education law, each member of such limited liability company must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions in this state. With respect to a professional service limited liability company formed to provide licensed clinical social work services as such services are defined in article 154 of the education law, each member of such limited liability company shall be licensed pursuant to article 154 of the education law to practice licensed clinical social work in this state. With respect to a professional service limited liability company formed to provide creative arts therapy services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice creative arts therapy in this state. With respect to a professional service limited liability company formed to provide marriage

and family therapy services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice marriage and family therapy in this state. With respect to a professional service limited liability company formed to provide mental health counseling services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice mental health counseling in this state. With respect to a professional service limited liability company formed to provide psychoanalysis services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice psychoanalysis in this state. In addition to engaging in such profession or professions, a professional service limited liability company may engage in any other business or activities as to which a limited liability company may be formed under section two hundred one of this chapter.

Notwithstanding any other provision of this section, a professional service limited liability company (i) authorized to practice law may only engage in another profession or business or activities or (ii) which is engaged in a profession or other business or activities other than law may only engage in the practice of law, to the extent not prohibited by any other law of this state or any rule adopted by the appropriate appellate division of the supreme court or the court of appeals.

- (b) The articles of organization of a professional service limited liability company shall meet the requirements of this chapter and (i) shall state the profession or professions to be practiced by such limited liability company and (A) the names and residence addresses of all individuals who are to be the original members and the original managers, if any, of such limited liability company, and (B) the names and residence addresses or, if none, the business address of all shareholders, directors, officers, members, managers and partners of all professional service corporations, foreign professional service corporations, professional service limited liability companies, foreign professional service limited liability companies, registered limited liability partnerships, foreign limited liability partnerships, and professional partnerships who are to be the original members or managers, if any, who are individuals of such limited liability company, (ii) shall have attached thereto a certificate or certificates issued by the licensing authority or by the comparable authority of another state certifying that each of the proposed members and managers, if any, who are individuals is authorized by law to practice a profession that such limited liability company is being formed to practice and, if applicable, that one or more of such individuals are authorized to practice within the state each profession that such limited liability company will be authorized to practice, and (iii) if such proposed member or manager, if any, is a professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership, (A) such certificate or certificates issued by the licensing authority or by the comparable authority of another state shall certify either (1) that each proposed member or manager is authorized by law to practice a profession that such limited liability company is being formed to practice and, if applicable, that each shareholder, member or partner of such proposed member or manager is authorized by law to render a professional service within the state or (2) that one or more of such proposed members and one or more of such proposed managers, are

authorized to practice within the state each profession that such limited liability company will be authorized to practice and that one or more of the shareholders, members or partners of such proposed members or managers are authorized to practice within the state each profession that such limited liability company will be authorized to practice within the state and (B) there shall be attached to the articles of organization of the professional service limited liability company a certificate by an authorized officer of the jurisdiction of its formation that the professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership or foreign limited liability partnership is validly existing and, in the case of a foreign professional service corporation, foreign professional service limited liability company or foreign limited liability partnership, a certificate from the secretary of state that such foreign professional service corporation, foreign professional service limited liability company or foreign limited liability partnership is authorized to do business under article fifteen-A of the business corporation law, under article thirteen of this chapter or under article eight-B of the partnership law, as the case may be.

- (c) (1) A certified copy of the articles of organization and of each amendment thereto and restatement thereof shall be filed by the professional service limited liability company with the licensing authority within thirty days after the filing of such certificate or amendment with the department of state.

* (2) Within one hundred twenty days after the filing of the articles of organization, a copy of the same or a notice containing the substance thereof shall be published once in each week for six successive weeks, in two newspapers of the county in which the office of the professional service limited liability company is located, to be designated by the county clerk, one of which newspapers shall be a newspaper published in the city or town in which the office is intended to be located, if a newspaper be published therein; or, if no newspaper is published therein, in the newspaper nearest thereto, and proof of such publication by the affidavit of the printer or publisher of each of such newspapers must be filed with the department of state. The notice shall include: (i) the name of the professional service limited liability company; (ii) the date of filing of the articles of organization with the secretary of state; (iii) the county within this state, in which the office of the professional service limited liability company is to be located; (iv) a statement that the secretary of state has been designated as agent of the professional service limited liability company upon whom process against it may be served and the post office address within or without this state to which the secretary of state shall mail a copy of any process against it served upon him or her; (v) if the professional service limited liability company is to have a registered agent, his or her name and address within this state and a statement that the registered agent is to be the agent of the professional service limited liability company upon whom process against it may be served; (vi) if the professional service limited liability company is to have a specific date of dissolution in addition to the events of dissolution set forth in section seven hundred one of this chapter, the latest date upon which the professional service limited liability company is to dissolve; and (vii) the character or purpose of the business of such professional service limited liability company. Failure to cause such notice to be published or to file such proof within one hundred twenty days of the filing of the articles shall prohibit the professional service limited liability company from maintaining any action or special proceeding in this state unless and until such professional service limited liability company causes such notice to

be published and files such proof of publication. The failure of a professional service limited liability company to cause such notice to be published or to file proof of publication shall not impair the validity of any contract or act of the professional service limited liability company or the right of any other party to the contract to maintain any action or special proceeding thereon, and shall not prevent the professional service limited liability company from defending any action or special proceeding in this state.

* NB Effective until June 1, 2006

* (2)

(A) Within one hundred twenty days after the filing of the articles of organization, a copy of the same or a notice containing the substance thereof shall be published once in each week for four successive weeks, in two newspapers of the county in which the office of the professional service limited liability company is intended to be located, one newspaper to be printed weekly and one newspaper to be printed daily, to be designated by the county clerk, as though the copy or notice were a notice or advertisement of judicial proceedings, and proof of such publication, consisting of the certificate of publication of the professional service limited liability company with the affidavits of publication of such newspapers annexed thereto, be filed with the department of state. Notwithstanding any other provision of law, if the office of the professional service limited liability company is located in a county wherein a weekly or daily newspaper of the county, or both, has not been so designated by the county clerk, then the publication herein required shall be made in a weekly or daily newspaper of the county, or both, as the case may be, which is closest to, such county, provided that any such newspaper meets all the other requirements of this subparagraph. A copy or notice published in a newspaper other than the newspaper or newspapers designated by the county clerk shall not be deemed to be one of the publications required by this subparagraph. Notwithstanding any other provision of law, a professional service limited liability company shall not include for purposes of clauses (v-a) and (v-b) of this subparagraph, any professional service limited liability company which is (i) an investment advisor as defined in the Investment Advisers Act of 1940 or a commodity pool operator or commodity trading advisor as defined in the Commodity Exchange Act, or (ii) a collective investment vehicle or any direct or indirect subsidiary and affiliates thereof sponsored, advised or managed by an investment adviser, commodity pool operator or commodity trading advisor as set forth in item (i) of this sentence. The notice shall include: (i) the name of the professional service limited liability company; (ii) the date of filing of the articles of organization with the department of state; (iii) the county within this state, in which the office of the professional service limited liability company is to be located; (iii-a) the city, town or village therein together with the number and street where such office is to be located, or, if the street address of such office has not been determined at the time the notice is prepared for publication, the following statement: "The street address of the professional service limited liability company's office has not yet been determined."; (iv) a statement that the secretary of state has been designated as agent of the professional service limited liability company upon whom process against it may be served and the post office address within or without this state to which the secretary of state shall mail a copy of any process against it served upon him or her; (v) if the professional service limited liability company is to have a registered agent, his or her name and address within this state and a statement that the registered agent

is to be the agent of the professional service limited liability company upon whom process against it may be served; (v-a) the names of the ten persons, or such lesser number of persons as permitted in this clause who are actively engaged in the business and affairs of the professional service limited liability company and who are members of the professional service limited liability company having the most valuable membership interests, as such term is defined in subdivision (r) of section one hundred two of this chapter, in the aggregate in such company. In complying with the provisions of this clause, the professional service limited liability company may elect to select any one of the aggregate rights components specified in paragraph (i), (ii) or (iii) of such subdivision (r) provided that in the event each of the three component items have less than ten members, such professional service limited liability company shall select the item which has the greatest number of members; (v-b) the following statement: "The inclusion of the name of a person in this notice does not necessarily indicate that such person is personally liable for the debts, obligations or liabilities of the professional service limited liability company, and such person's liability, if any, under applicable law is neither increased nor decreased by reason of this notice."; (vi) if the professional service limited liability company is to have a specific date of dissolution in addition to the events of dissolution set forth in section seven hundred one of this chapter, the latest date upon which the professional service limited liability company is to dissolve; and (vii) the character or purpose of the business of such professional service limited liability company. Where, at any time after completion of the first of the four weekly publications required by this subparagraph and prior to the completion of the fourth such weekly publication, there is a change in any of the information contained in the copy or notice as published, the professional service limited liability company may complete the remaining publications of the original copy or notice, and the professional service limited liability company shall not be required to publish any further or amended copy or notice. Where, at any time after completion of the four weekly publications required by this subparagraph, there is a change to any of the information contained in the copy or notice as published, no further or amended publication or republication shall be required to be made. If within one hundred twenty days after its formation, proof of such publication, consisting of the certificate of publication of the professional service limited liability company with the affidavits of publication of the newspapers annexed thereto has not been filed with the department of state, the authority of such professional service limited liability company to carry on, conduct or transact any business in this state shall be suspended, effective as of the expiration of such one hundred twenty day period. Neither the failure of a professional service limited liability company to cause such copy or notice to be published and such certificate of publication and affidavits of publication to be filed with the department of state within such one hundred twenty day period nor the suspension of such professional service limited liability company's authority to carry on, conduct or transact business in this state pursuant to this subparagraph shall limit or impair the validity of any contract or act of such professional service limited liability company, or any right or remedy of any other party under or by virtue of any contract, act or omission of such professional service limited liability company, or the right of any other party to maintain any action or special proceeding on any such contract, act or omission, or right of such professional service limited liability company to defend any action or special proceeding in this state. If, at any time following the suspension of a

- professional service limited liability company's authority to carry on, conduct or transact business in this state pursuant to this subparagraph, such professional service limited liability company shall cause proof of publication in substantial compliance with the provisions (other than the one hundred twenty day period) of this subparagraph, consisting of the certificate of publication of the professional service limited liability company with the affidavits of publication of the newspapers annexed thereto, to be filed with the department of state, such suspension of such professional service limited liability company's authority to carry on, conduct or transact business shall be annulled.
- (B) (i) A professional service limited liability company which was formed prior to the effective date of this subparagraph and which complied with the publication and filing requirements of this paragraph as in effect prior to such effective date shall not be required to make any publication or republication or any filing under subparagraph (A) of this paragraph, and shall not be subject to suspension pursuant to this paragraph.
- (ii) Within eighteen months after the effective date of this subparagraph, a professional service limited liability company which was formed prior to such effective date and which did not comply with the publication and filing requirements of this paragraph as in effect prior to such effective date shall publish a copy of its articles of organization or a notice containing the substance thereof in the manner required (other than the one hundred twenty day period) by this subparagraph as in effect prior to such effective date and file proof of such publication, consisting of the certificate of publication of the professional service limited liability company with the affidavits of publication of the newspapers annexed thereto, with the department of state.
- (iii) If a professional service limited liability company that is subject to the provisions of clause (ii) of this subparagraph fails to file the required proof of publication with the department of state within eighteen months after the effective date of this subparagraph, its authority to carry on, conduct or transact any business in this state shall be suspended, effective as of the expiration of such eighteen month period.
- (iv) Neither the failure of a professional service limited liability company that is subject to the provisions of clause (ii) of this subparagraph to fully comply with the provisions of said clause (ii) nor the suspension of such professional service limited liability company's authority to carry on, conduct or transact any business in this state pursuant to clause (iii) of this subparagraph shall impair or limit the validity of any contract or act of such professional service limited liability company, or any right or remedy of any other party under or by virtue of any contract, act or omission of such professional service limited liability company, or the right of any other party to maintain any action or special proceeding on any such contract, act or omission, or right of such professional service limited liability company to defend any action or special proceeding in this state.
- (v) If, at any time following the suspension of a professional service limited liability company's authority to carry on, conduct or transact business in this state, pursuant to clause (iii) of this subparagraph, such professional service limited liability company shall cause proof of publication in substantial compliance with the provisions (other than the one hundred twenty day period) of subparagraph (A) of this paragraph, consisting of the certificate of publication of the professional service limited liability company with the affidavits of publication of the newspapers annexed thereto, to be

filed with the department of state, such suspension of such professional service limited liability company's authority to carry on, conduct or transact business shall be annulled.

(vi) For the purposes of this subparagraph, a professional service limited liability company which was formed prior to the effective date of this subparagraph shall be deemed to have complied with the publication and filing requirements of this paragraph as in effect prior to such effective date if (i) the professional service limited liability company was formed on or after January first, nineteen hundred ninety-nine and prior to such effective date and the professional service limited liability company filed at least one affidavit of the printer or publisher of a newspaper with the department of state at any time prior to such effective date, or (ii) the professional service limited liability company was formed prior to January first, nineteen hundred ninety-nine, without regard to whether the professional service limited liability company did or did not file any affidavit of the printer or publisher of a newspaper with the secretary of state.

(C) The information in a notice published pursuant to this paragraph shall be presumed to be in compliance with and satisfaction of the requirements of this paragraph. In particular, but not by way of limitation, the list of names of persons included in such notice pursuant to clause (v-a) of subparagraph (A) of this paragraph shall be presumed to be complete and accurate and to be in compliance with and satisfaction of the requirements of this paragraph, and neither the omission of any name or names which should have been included in such list, nor the inclusion of any name or names which should not have been included in such list, nor any misspelling of or other irregularity with respect to any name or names included in such list, shall negate or otherwise limit or impair the effectiveness of such notice or the publication thereof, provided that such omission, inclusion, misspelling or irregularity was not willfully made with the intention of deceiving the public.

* NB Effective June 1, 2006

- (d) A professional service limited liability company, other than a professional service limited liability company authorized to practice law, shall be under the supervision of the regents of the university of the state of New York and be subject to disciplinary proceedings and penalties, and its articles of organization shall be subject to suspension, revocation or annulment for cause, in the same manner and to the same extent as is provided with respect to individuals and their licenses, certificates and registrations in title eight of the education law relating to the applicable profession. Notwithstanding the provisions of this subdivision, a professional service limited liability company authorized to practice medicine shall be subject to the pre-hearing procedures and hearing procedures as are provided with respect to individual physicians and their licenses in Title II-A of article two of the public health law.
- (e) A professional service limited liability company authorized to practice law shall be subject to the regulation and control of, and its articles of organization shall be subject to suspension, revocation or annulment for cause by, the appellate division of the supreme court and the court of appeals in the same manner and to the same extent provided in the judiciary law with respect to individual attorneys and counselors-at-law. Such limited liability company need not qualify for any certification under section four hundred sixty-four of the judiciary law, take an oath of office under section four hundred sixty-six of the judiciary law or register under section four hundred sixty-seven of the judiciary law.

- (f) The order of suspension, revocation or annulment of the articles of organization of a professional service limited liability company pursuant to subdivisions (d) and (e) of this section shall be effective upon the filing of such order with the department of state.

§ 1204. Rendering of professional service.

- (a) No professional service limited liability company may render a professional service except through individuals authorized by law to render such professional service, as individuals, provided, that nothing in this chapter shall authorize a professional service limited liability company to render a professional service in this state except through individuals authorized by law to render such professional service as individuals in this state.
- (b) Each final plan and report made or issued by a professional service limited liability company practicing professional engineering, architecture, landscape architecture or land surveying shall bear the name and seal of one or more professional engineers, architects, landscape architects or land surveyors, respectively, who are in responsible charge of such plan or report.
- (c) Each report, diagnosis, prognosis and prescription made or issued by a professional service limited liability company practicing medicine, dentistry, podiatry, optometry, ophthalmic dispensing, veterinary medicine, pharmacy, nursing, psychology, physical therapy or chiropractic shall bear the signature of one or more physicians, dentists, podiatrists, optometrists, ophthalmic dispensers, veterinarians, pharmacists, nurses, licensed psychologists, physical therapists or chiropractors, respectively, who are in responsible charge of such report, diagnosis, prognosis or prescription.
- (d) Each record, transcript, report and hearing report prepared by a professional service limited liability company practicing certified shorthand reporting shall bear the signature of one or more certified shorthand reporters who are in responsible charge of such record, transcript, report or hearing report.
- (e) Each professional service limited liability company practicing public accounting or certified public accounting shall maintain records indicating the identity of each public accountant or certified public accountant, respectively, who was responsible for each report or statement that is issued, prepared or examined by such limited liability company.
- (f) Each opinion prepared by a professional service limited liability company practicing law shall bear the signature of one or more attorneys and counselors-at-law who are in responsible charge of such opinion.
- (g) In addition to the requirements pursuant to subdivisions (b) through (f) of this section, each document prepared by a professional service limited liability company that under the rules, regulations, laws or customs of the applicable profession is required to bear the signature of an individual in responsible charge of such document, shall be signed by one or more such individuals.

§ 1205. Professional relationships and liabilities.

- (a) Each member, manager, employee or agent of a professional service limited liability company shall be personally and fully liable and accountable for any negligent or wrongful act or misconduct committed by him or her or by any person under his or her direct supervision and control while rendering professional services on behalf of such limited liability company.
- (b) Each shareholder, director, officer, employee, member, manager, partner and agent of a professional service corporation, foreign professional service corporation, professional

service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership that is a member, manager, employee or agent of a professional service limited liability company shall be personally and fully liable and accountable for any negligent or wrongful act or misconduct committed by him or her or by any person under his or her direct supervision and control while rendering professional services in his or her capacity as a member, manager, employee or agent of such professional service limited liability company.

- (c) The relationship of a professional to a professional service limited liability company with which such professional is associated, whether as member, manager, employee or agent, shall not modify or diminish the jurisdiction over such professional of the licensing authority and in the case of an attorney and counselor-at-law, or a professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership engaged in the practice of law, the courts of this state.

§ 1206. Purposes of formation.

No professional service limited liability company shall engage in any profession or professions other than those set forth in its articles of organization. A professional service limited liability company may only engage in a profession or professions as to which one or more of its members is authorized by law to render professional services in this state. In addition to engaging in such profession or professions, a professional service limited liability company may carry on, or conduct or transact any other business or other activities as to which a limited liability company may be formed under section two hundred one of this chapter. Notwithstanding any other provision of this section, and subject to the next succeeding sentence of this section, a professional service limited liability company (i) authorized to practice law may only engage in another profession or other business or activities or (ii) which is engaged in a profession or other business or activities other than law may only engage in the practice of law, to the extent not prohibited by any other law of this state or any rule adopted by the appropriate appellate division of the supreme court or the court of appeals. Any professional service limited liability company may invest its funds in real estate, mortgages, stocks, bonds or any other type of investments.

§ 1207. Membership of professional service limited liability companies.

- (a) A member of a professional service limited liability company shall be only:
- (1) A professional, other than a foreign professional service corporation, foreign professional service limited liability company or foreign limited liability partnership, authorized by law to practice in this state a profession that such limited liability company is authorized to practice and who is or has been engaged in the practice of such profession in such limited liability company or a predecessor entity, or who will engage in the practice of such profession in such limited liability company within thirty days of the date such professional becomes a member;
 - (2) A professional, other than a foreign professional service corporation, foreign professional service limited liability company or foreign limited liability partnership, authorized by law to practice in any foreign jurisdiction a profession that such limited liability company is authorized to practice and who is or has been engaged in the practice of such profession in such limited liability company

or a predecessor entity, or who will engage in the practice of such profession in such limited liability company within thirty days of the date such professional becomes a member; or

- (3) A foreign professional service corporation, foreign professional service limited liability company or foreign limited liability partnership authorized by law to practice in this state or in any foreign jurisdiction a profession that such limited liability company is authorized to practice and who is or has been engaged in the practice of such profession in such limited liability company or a predecessor entity, or who will engage in the practice of such profession in such limited liability company within thirty days of the date such professional becomes a member.
- (b) With respect to a professional service limited liability company formed to provide medical services as such services are defined in article 131 of the education law, each member of such limited liability company must be licensed pursuant to article 131 of the education law to practice medicine in this state. With respect to a professional service limited liability company formed to provide dental services as such services are defined in article 133 of the education law, each member of such limited liability company must be licensed pursuant to article 133 of the education law to practice dentistry in this state. With respect to a professional service limited liability company formed to provide veterinary services as such services are defined in article 135 of the education law, each member of such limited liability company must be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state. With respect to a professional service limited liability company formed to provide professional engineering, land surveying, architectural and/or landscape architectural services as such services are defined in article 145, article 147 and article 148 of the education law, each member of such limited liability company must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions in this state. With respect to a professional service limited liability company formed to provide licensed clinical social work services as such services are defined in article 154 of the education law, each member of such limited liability company shall be licensed pursuant to article 154 of the education law to practice licensed clinical social work in this state. With respect to a professional service limited liability company formed to provide creative arts therapy services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice creative arts therapy in this state. With respect to a professional service limited liability company formed to provide marriage and family therapy services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice marriage and family therapy in this state. With respect to a professional service limited liability company formed to provide mental health counseling services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice mental health counseling in this state. With respect to a professional service limited liability company formed to provide psychoanalysis services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice psychoanalysis in this state.

- (c) No member of a professional service limited liability company shall enter into a voting trust agreement, proxy or any other type of agreement vesting in another person, other than another member of such limited liability company or professional who would be eligible to become a member of such limited liability company, the authority to exercise voting power of any or all of the membership interests of such limited liability company. All membership interests or proxies granted or agreements made in violation of this section shall be void.

§ 1208. (Reserved)

§ 1209. Disqualification of members, managers and employees.

If any member, manager or employee of a professional service limited liability company who has been rendering professional service to the public becomes legally disqualified to practice his, her or its profession within this state, he, she or it shall sever all employment with and financial interests (other than interests as a creditor or vested rights under a bona fide retirement program) in such limited liability company forthwith or as otherwise provided in section twelve hundred ten of this article. All provisions of law regulating the rendering of professional services by a person elected or appointed to a public office shall be applicable to a member, manager or employee of such limited liability company in the same manner and to the same extent as if fully set forth herein. Such legal disqualification to practice such profession within this state shall be deemed to constitute an irrevocable offer by the disqualified member to sell his, her or its membership interest to the professional service limited liability company, pursuant to the provisions of section twelve hundred ten of this article or of the articles of organization or operating agreement, whichever is applicable. Compliance with the terms of such offer shall be specifically enforceable in the courts of this state. A professional service limited liability company's failure to enforce compliance with this provision shall constitute a ground for its dissolution.

§ 1210. Death, disqualification or dissolution of members.

- (a) A professional service limited liability company shall purchase or redeem the membership interest of a member in case of such member's death or disqualification pursuant to the provisions of section twelve hundred nine of this article or in the case of a member that is a professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership, dissolution or disqualification of such professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership (in the case of registered limited liability partnership, foreign limited liability partnership and professional partnership, other than a dissolution followed by a reconstitution where at least a majority of the total interests in the current profits of a successor partnership are held by partners of the predecessor partnership that was a registered limited liability partnership, foreign limited liability partnership or professional partnership who were partners of such predecessor partnership immediately prior to the dissolution of such predecessor partnership) or the death, dissolution or disqualification of all of its shareholders, members or partners, within six months after the appointment of the executor or administrator or other legal representative of the estate of such deceased

member, or within six months after such disqualification or dissolution, at the book value of such membership interest as of the end of the month immediately preceding the death, disqualification or dissolution of the member as determined from the records of such limited liability company in accordance with its regular method of accounting. The operating agreement of such limited liability company may modify this section by providing for a shorter period of purchase or redemption, or an alternate method of determining the price to be paid for the membership interest, or both. If such limited liability company shall fail to purchase or redeem such membership interest within the required period, a successful plaintiff in an action to recover the purchase price of such membership interest shall also be awarded reasonable attorneys' fees and costs. Nothing herein contained shall prevent such limited liability company from paying pension benefits or other deferred compensation to or on behalf of a former or deceased member, manager or employee thereof, or where such member, manager or employee is a professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership, on behalf of a former or deceased shareholder, officer, director, member, manager, partner, or employee of such professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership, as otherwise permitted by law. The provisions of this section shall not be deemed to require the purchase of the membership interest of a disqualified member where the period of disqualification is for less than six months and the member again becomes eligible to practice his or her profession within six months from the date of disqualification (or, in the case of a disqualified member that is a professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership, where the period of disqualification of such professional service corporation, foreign professional corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership, where the period of disqualification of such professional service corporation, foreign professional corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership or all shareholders, members or partners of such professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership is for less than six months and such professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership or each such shareholder, member or partner becomes eligible to practice his or her profession within six months from the date of disqualification).

- (b) Notwithstanding the provisions of subdivision (a) of this section, the professional service limited liability company shall not be required to purchase or redeem the membership interest of a deceased or disqualified or dissolved member if such membership interest, within the time limit prescribed by subdivision (a) of this section, is sold or transferred to another professional pursuant to the provisions of section twelve hundred eleven of this article.

§ 1211. Transfer of a membership interest.

- (a) No member of a professional service limited liability company may sell or assign his, her or its membership interest in such limited liability company except to another professional eligible to become a member of such limited liability company or except in trust to another professional who would be eligible to become a member if such professional were employed by such limited liability company.
- (b) Nothing contained in subdivision (a) of this section shall be construed to prohibit the assignment of a membership interest by operation of law or by court decree. An assignee of a membership interest by operation of law or court decree shall have the rights of an assignee of a membership interest set forth in section six hundred three of this chapter. Such assignee shall automatically become a member of the professional service limited liability company if such assignee would be eligible to be a member of such limited liability company and, a majority in interest of the members shall fail to redeem the membership interest so transferred, pursuant to section twelve hundred ten of this article, within sixty days of receiving written notice of such transfer.
- (c) Any sale or transfer, except by operation of law or court decree or except for a professional service limited liability company having only one member, may be made only after the same shall have been approved by the vote or written consent of such proportion, not less than a majority in interest of the members, exclusive of the interest of the member proposing to sell or transfer such membership interest, as may be provided in the operating agreement of such professional service limited liability company. The voting interest held by the member proposing to sell or transfer his, her or its membership interest may not be voted or counted for any purpose, unless all the members consent that such interests be voted or counted. The professional service limited liability company may provide, in lieu of or in addition to the foregoing provisions, for the alienation of membership interests and may require the redemption or purchase of such membership interests by such limited liability company at prices and in a manner specifically set forth therein. The existence of the restrictions on the sale or transfer of a membership interest, as contained in this article and, if applicable, in the operating agreement, shall be noted conspicuously on the face or back of every certificate representing a membership interest issued by a professional service limited liability company. Any sale or transfer in violation of such restrictions shall be void.

§ 1212. Limited liability company name.

- (a) Notwithstanding any other provision of law, the name of a professional service limited liability company may contain any word that, at the time of formation, could be used in the name of a partnership or professional service corporation practicing a profession that such limited liability company is authorized to practice and may not contain any word that could not be used by such a partnership or professional service corporation; provided, however, the name of a professional service limited liability company may not contain the name of a deceased person unless: (1) such person's name was part of the name of such limited liability company at the time of such person's death; or (2) such person's name was part of the name of an existing partnership or professional service corporation and at least two-thirds of such partnership's partners or corporation's shareholders, as the case may be, become members of such limited liability company.
- (b) A professional service limited liability company name shall end with the words "Professional Limited Liability Company" or "Limited Liability Company" or the abbreviation "P.L.L.C.", "PLLC", "L.L.C." or "LLC". The provisions of subdivision (a)

of section two hundred four of this chapter shall not apply to a professional service limited liability company.

§ 1213. Limited liability company act applicable.

This chapter, except article eight and article thirteen, shall be applicable to a professional service limited liability company except to the extent that the provisions thereof conflict with this article. A professional service limited liability company may consolidate or merge with another limited liability company formed under this article, a foreign professional service limited liability company authorized to do business under article thirteen of this chapter or other business entity, only if all of the professions practiced by such limited liability company, foreign limited liability company or other business entity could be practiced by a single limited liability company organized under this article.

§ 1214. (Reserved)

§ 1215. Regulation of professions.

This article shall not repeal, modify or restrict any provision of the education law or the judiciary law or any rules or regulations adopted thereunder regulating the professions referred to in the education law or the judiciary law except to the extent in conflict herewith.

§ 1216. Mergers and consolidations.

Notwithstanding any inconsistent provision of this article, a professional service limited liability company, pursuant to the provisions of article ten of this chapter, may be merged or consolidated with another limited liability company formed pursuant to the provisions of this chapter, a foreign professional service limited liability company authorized to do business under article thirteen of this chapter or other business entity formed or recognized under the laws of this state or any other state, provided that the limited liability company or other business entity that survives or that is formed pursuant thereto is a professional service limited liability company, a foreign professional service limited liability company authorized to do business under article thirteen of this chapter or other business entity practicing the same profession or professions in this state or the state of its formation. The restrictions on the issuance, transfer or sale of membership interests of a professional service limited liability company other than the requirements of the first two sentences of subdivision (c) of section twelve hundred eleven of this chapter, shall be suspended for a period not exceeding thirty days with respect to any issuance, transfer or sale of membership interests made pursuant to such merger or consolidation, provided that (a) no person or business entity who would not be eligible to be a member in the absence of this section shall vote or receive any distribution from such limited liability company; (b) after such merger or consolidation, any professional service limited liability company that survives or that is created thereby shall be subject to all the provisions of this article; and (c) membership interests thereafter may be held only by persons or business entities who are eligible to be a member of such professional service limited liability company. Nothing herein contained shall be construed as permitting the practice of a profession in this state by a limited liability company that is not formed pursuant to the provisions of this article or authorized to do business in the state pursuant to the provisions of article thirteen of this chapter.

- End of Excerpt from Article 12 -

8. Limited Liability Company Article 13

The following is excerpted from Article 13 of New York Limited Liability Company Law:

Article 13 - Foreign Professional Service Limited Liability Companies

§1301 - Definitions.

§1302 - Rendering of professional service.

§1303 - Professional relationships and liabilities.

§1304 - Foreign professional service limited liability company.

§1305 - Limited liability company act applicable.

§1306 - Filing requirements.

§1307 - (Reserved)

§1308 - Regulation of professions.

§1309 - Licensing of individuals.

§ 1301. Definitions.

As used in this article, unless the context otherwise requires, the term:

- (a) "Foreign professional service limited liability company" means a professional service limited liability company, whether or not denominated as such, organized under the laws of a jurisdiction other than this state, (i) each of whose members and managers, if any, is a professional authorized by law to render a professional service within this state and who is or has been engaged in the practice of such profession in such professional service limited liability company or a predecessor entity, or will engage in the practice of such profession in the professional service limited liability company within thirty days of the date such professional becomes a member, or each of whose members and managers, if any, is a professional at least one of such members is authorized by law to render a professional service within this state and who is or has been engaged in the practice of such profession in such professional service limited liability company or a predecessor entity, or will engage in the practice of such profession in the professional service limited liability company within thirty days of the date such professional becomes a member, or (ii) authorized by, or holding a license, certificate, registration or permit issued by the licensing authority pursuant to, the education law to render a professional service within this state; except that all members and managers, if any, of a foreign professional service limited liability company that provides health services in this state shall be licensed in this state.

With respect to a foreign professional service limited liability company which provides veterinary services as such services are defined in article 135 of the education law, each member of such foreign professional service limited liability company shall be licensed pursuant to article 135 of the education law to practice veterinary medicine. With respect to a foreign professional service limited liability company which provides medical services as such services are defined in article 131 of the education law, each member of such foreign professional service limited liability company must be licensed pursuant to article 131 of the education law to practice medicine in this state.

With respect to a foreign professional service limited liability company which provides dental services as such services are defined in article 133 of the education law, each member of such foreign professional service limited liability company must be licensed pursuant to article 133 of the education law to practice dentistry in this state. With respect to a foreign professional service limited liability company which provides professional engineering, land surveying, architectural and/or landscape architectural services as such services are defined in article 145, article 147 and article 148 of the education law, each member of such foreign professional service limited liability company must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions in this state. With respect to a foreign professional service limited liability company which provides licensed clinical social work services as such services are defined in article 154 of the education law, each member of such foreign professional service limited liability company shall be licensed pursuant to article 154 of the education law to practice clinical social work in this state. With respect to a foreign professional service limited liability company which provides creative arts therapy services as such services are defined in article 163 of the education law, each member of such foreign professional service limited liability company must be licensed pursuant to article 163 of the education law to practice creative arts therapy in this state. With respect to a foreign professional service limited liability company which provides marriage and family therapy services as such services are defined in article 163 of the education law, each member of such foreign professional service limited liability company must be licensed pursuant to article 163 of the education law to practice marriage and family therapy in this state. With respect to a foreign professional service limited liability company which provides mental health counseling services as such services are defined in article 163 of the education law, each member of such foreign professional service limited liability company must be licensed pursuant to article 163 of the education law to practice mental health counseling in this state. With respect to a foreign professional service limited liability company which provides psychoanalysis services as such services are defined in article 163 of the education law, each member of such foreign professional service limited liability company must be licensed pursuant to article 163 of the education law to practice psychoanalysis in this state.

- (b) "Licensing authority" means the regents of the university of the state of New York or the state education department, as the case may be, in the case of all professions licensed under title eight of the education law, and the appropriate appellate division of the supreme court in the case of the profession of law.
- (c) "Profession" includes any practice as an attorney and counselor-at-law, or as a licensed physician, and those professions designated in title eight of the education law.
- (d) "Professional" means an individual duly authorized to practice a profession, a professional service corporation, a professional service limited liability company, a foreign professional service limited liability company, a registered limited liability partnership, a foreign limited liability partnership, a foreign professional service corporation or a professional partnership.
- (e) "Professional service" means any type of service to the public that may be lawfully rendered by a member of a profession within the purview of his or her profession.
- (f) "Professional partnership" means (1) a partnership without limited partners each of whose partners is a professional authorized by law to render a professional service within this state, (2) a partnership without limited partners each of whose partners is a professional, at least one of whom is authorized by law to render a professional service

within this state or (3) a partnership without limited partners authorized by, or holding a license, certificate, registration or permit issued by the licensing authority pursuant to the education law to render a professional service within this state; except that all partners of a professional partnership that provides medical services in this state must be licensed pursuant to article 131 of the education law to practice medicine in this state and all partners of a professional partnership that provides dental services in this state must be licensed pursuant to article 133 of the education law to practice dentistry in this state; except that all partners of a professional partnership that provides veterinary services in this state must be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state; and further except that all partners of a professional partnership that provides professional engineering, land surveying, architectural, and/or landscape architectural services in this state must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions.

- (g) "Professional service corporation" means (i) a corporation organized under article fifteen of the business corporation law and (ii) any other corporation organized under the business corporation law or any predecessor statute, which is authorized by, or holds a license, certificate, registration or permit issued by, the licensing authority pursuant to the education law to render professional services within this state.
- (h) "Professional service limited liability company" means a limited liability company organized under article twelve of this chapter.
- (i) "Foreign professional service corporation" has the meaning given to it in paragraph (d) of section fifteen hundred twenty-five of the business corporation law.

§ 1302. Rendering of professional service.

- (a) No foreign professional service limited liability company may render a professional service in this state except through individuals authorized by law to render such professional service as individuals in this state.
- (b) Each final plan and report made or issued by a foreign professional service limited liability company practicing professional engineering, architecture, landscape architecture or land surveying shall bear the name and seal of one or more professional engineers, architects, landscape architects, or land surveyors, respectively, who are in responsible charge of such plan or report.
- (c) Each report, diagnosis, prognosis and prescription made or issued by a foreign professional service limited liability company practicing medicine, dentistry, podiatry, optometry, ophthalmic dispensing, veterinary medicine, pharmacy, nursing, psychology, physical therapy or chiropractic shall bear the signature of one or more physicians, dentists, podiatrists, optometrists, ophthalmic dispensers, veterinarians, pharmacists, nurses, licensed psychologists, physical therapists or chiropractors, respectively, who are in responsible charge of such report, diagnosis, prognosis or prescription.
- (d) Each record, transcript, report and hearing report prepared by a foreign professional service limited liability company practicing certified shorthand reporting shall bear the signature of one or more certified shorthand reporters who are in responsible charge of such record, transcript, report or hearing report.
- (e) Each report and statement prepared by a foreign professional service limited liability company practicing public accounting or certified public accounting shall bear the signature of one or more public accountants or certified public accountants, respectively, who are in responsible charge of such report or statement.

- (f) Each opinion prepared by a foreign professional service limited liability company practicing law shall bear the signature of one or more attorneys and counselors-at-law who are in responsible charge of such opinion.
- (g) In addition to the requirements in subdivisions (b) through (f) of this section, each document prepared by a foreign professional service limited liability company that under the rules, regulations, laws or customs of the applicable profession is required to bear the signature of an individual in responsible charge of such document, shall be signed by one or more such individuals licensed to practice in this state.

§ 1303. Professional relationships and liabilities.

- (a) Each member, manager, employee or agent of a foreign professional service limited liability company who performs professional services in this state on behalf of such limited liability company shall be personally and fully liable and accountable for any negligent or wrongful act or misconduct committed by him or her or by any person under his or her direct supervision and control while rendering such professional services in this state and shall bear professional responsibility for compliance by such limited liability company with all laws, rules and regulations governing the practice of a profession in this state.
- (b) Each shareholder, director, officer, employee, member, manager, partner or agent of a professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership that is a member, manager, employee or agent of a foreign professional service limited liability company who performs professional services in this state on behalf of such foreign professional service limited liability company shall be personally and fully liable and accountable for any negligent or wrongful act or misconduct committed by him or her or by any person under his or her direct supervision and control while rendering professional services in this state in his or her capacity as a member, manager, employee or agent of such foreign professional service limited liability company and shall bear professional responsibility for compliance by such limited liability company with all laws, rules and regulations governing the practice of the profession in this state.
- (c) The relationship of a professional to a foreign professional service limited liability company with which such professional is associated, whether as a member, manager, employee or agent, shall not modify or diminish the jurisdiction over such professional of the licensing authority and in the case of an attorney and counselor-at-law or a professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership, engaged in the practice of law, the courts of this state.

§ 1304. Foreign professional service limited liability company.

No foreign professional service limited liability company shall engage in any profession or carry on, or conduct or transact any other business or activities in this state other than the rendering of the professional services or the carrying on, or conducting or transacting of any other business or activities for which it is formed and is authorized to do business in this state; provided that such limited liability company may invest its funds in real estate, mortgages, stocks, bonds or any other type of investments; provided, further, that a foreign professional service limited liability

company (i) authorized to practice law may only engage in another profession or other business or activities in this state or (ii) which is engaged in a profession or other business or activities other than law, may only engage in the practice of law in this state, to the extent not prohibited by any other law of this state or any rule adopted by the appropriate appellate division of the supreme court or the court of appeals.

§ 1305. Limited liability company act applicable.

Except for the provisions of sections eight hundred two and eight hundred nine of this chapter, this chapter shall be applicable to a foreign professional service limited liability company to the extent that the provisions thereof are not in conflict with the provisions of this article. A foreign professional service limited liability company may practice in this state or may consolidate or merge with another limited liability company or other business entity, only if all of the professions practiced by such limited liability company or other business entity could be practiced by a single professional service limited liability company organized in this state; and, further, only if such foreign professional service limited liability company is domiciled in a state the laws of which, at the time of application by such limited liability company under section thirteen hundred six of this article, contain a reciprocal provision under which professional service limited liability companies domiciled in this state may similarly apply for the privilege of doing business in any such state or territory.

§ 1306. Filing requirements.

- (a) A foreign professional service limited liability company may apply for authority to do business in this state. An application entitled "Application for authority of... (name of limited liability company) under section thirteen hundred six of the Limited Liability Company Law," shall be signed by an authorized person for the limited liability company and delivered to the department of state. It shall set forth: (1) the name of the foreign professional service limited liability company. If the name does not end with the words "Professional Limited Liability Company" or "Limited Liability Company" or the abbreviation "P.L.L.C.", "PLLC", "L.L.C." or "LLC", it shall in addition to the foregoing set forth the name to be used in this state, ending with the words "Professional Limited Liability Company" or "Limited Liability Company" or the abbreviation "P.L.L.C.", "PLLC", "L.L.C." or "LLC"; (2) the jurisdiction and date of its formation; (3) a statement of the profession or professions to be practiced in this state and a statement that the foreign professional service limited liability company is authorized to practice such profession or professions in the jurisdiction of its formation; (4) the name, address and, where applicable, license number of each professional within the foreign professional service limited liability company who is licensed to practice the profession or professions in this state; (5) the city, incorporated village or town and the county within this state in which its office is to be located; (6) a designation of the secretary of state as its agent upon whom process against it may be served and the post office address within or without this state to which the secretary of state shall mail a copy of any process against it served upon him or her; and (7) if it is to have a registered agent, his or her name and address within this state and a statement that the registered agent is to be its agent upon whom process against it may be served.
- (b) Attached to the application for authority shall be: (1) a certificate by an authorized officer of the jurisdiction of its formation that the foreign professional service limited liability company is an existing limited liability company; (2) a certificate or certificates issued by the licensing authority that each professional within such limited liability company who

is an individual and intending to practice the profession or professions in this state is licensed to practice said profession or professions in this state and for each such professional that is a professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership, (A) such certificate or certificates issued by the licensing authority shall certify either (i) that each such professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership intending to practice a profession in the state is authorized by law to practice in the state the profession that such foreign limited liability company intends to practice in the state and, if applicable, that each shareholder, member or partner of such proposed member or manager is authorized by law to render the professional service that such foreign limited liability company intends to practice in this state or (ii) that one or more of such professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership, intending to practice a profession in this state is authorized by law to practice in this state the profession that such foreign limited liability company intends to practice and that one or more of the shareholders, members or partners of such proposed members or managers are authorized to practice within this state each profession that such foreign limited liability company will be authorized to practice within this state and (B) there shall be attached to the application for authority a certificate by an authorized officer of the jurisdiction of its formation that the professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership or foreign limited liability partnership is validly existing and, in the case of a foreign professional service corporation, foreign professional service limited liability company or foreign limited liability partnership, a certificate from the secretary of state that such foreign professional service corporation, foreign professional service limited liability company or foreign limited liability partnership is authorized to do business under article fifteen-A of the business corporation law, this article or article eight-B of the partnership law, as the case may be.

- (c) In order to obtain said certificate or certificates, a copy of the articles of organization shall be furnished to the licensing authority; and (3) a certificate or certificates, issued by the licensing authority in the case of a foreign professional service limited liability company providing health services, stating that each member or manager of the foreign professional service limited liability company is licensed to practice said profession in this state.

The fee for filing the application for authority shall be two hundred dollars, payable to the department of state, and the fee for a certificate of authority issued by the state education department shall be fifty dollars.

- * (d) Within one hundred twenty days after the filing of the application for authority with the department of state, a copy of the same or a notice containing the substance thereof shall be published once in each week for six successive weeks, in two newspapers of the county within this state in which the office of the foreign professional service limited liability company is located, to be designated by the county clerk, one of which

newspapers shall be a newspaper published in the city or town in which the office is intended to be located, if a newspaper be published therein; or, if no newspaper is published therein, in the newspaper nearest thereto, and proof of such publication by the affidavit of the printer or publisher of each of such newspapers must be filed with the department of state. The notice shall include: (1) the name of the foreign professional service limited liability company; (2) the date of filing of the application for authority with the secretary of state; (3) the jurisdiction and date of its organization; (4) the county within this state, in which the office of the foreign professional service limited liability company is to be located; (5) a statement that the secretary of state has been designated as agent of the foreign professional service limited liability company upon whom process against it may be served and the post office address within or without this state to which the secretary of state shall mail a copy of any process against it served upon him or her; (6) if the foreign professional service limited liability company is to have a registered agent, his or her name and address within this state and a statement that the registered agent is to be the agent of the foreign professional service limited liability company upon whom process against it may be served; (7) the address of the office required to be maintained in the jurisdiction of its organization by the laws of that jurisdiction or, if not so required, of the principal office of the foreign professional service limited liability company; (8) the name and address of the authorized officer in its jurisdiction of organization where a copy of its certificate of organization is filed or, if no public filing of its certificate of organization is required by the law of its jurisdiction of organization, a statement that the foreign professional service limited liability company shall provide, on request, a copy thereof with all amendments thereto (if such documents are in a foreign language, a translation thereof under oath of the translator shall be attached thereto), and the name and post office address of the person responsible for providing such copies; and (9) the character or purpose of the business of such foreign professional service limited liability company. Failure to cause such notice to be published or to file such proof within one hundred twenty days of the filing of the application for authority shall prohibit the foreign professional service limited liability company from maintaining any action or special proceeding in this state unless and until such foreign professional service limited liability company causes such notice to be published and files such proof of publication. The failure of a foreign professional service limited liability company to cause such notice to be published or to file proof of publication shall not impair the validity of any contract or act of the foreign professional service limited liability company or the right of any other party to the contract to maintain any action or special proceeding thereon, and shall not prevent the foreign professional service limited liability company from defending any action or special proceeding in this state.

* NB Effective until June 1, 2006

* (d) (i) Within one hundred twenty days after the filing of the application for authority with the department of state, a copy of the same or a notice containing the substance thereof shall be published once in each week for four successive weeks, in two newspapers of the county within this state in which the office of the foreign professional service limited liability company is intended to be located, one newspaper to be printed weekly and one newspaper to be printed daily, to be designated by the county clerk, and proof of such publication, consisting of the certificate of publication of the foreign professional service limited liability company with the affidavits of publication of such newspapers annexed thereto, must be filed with the department of state. Notwithstanding any other provision

of law, if the office of the foreign professional service limited liability company is located in a county wherein a weekly or daily newspaper of the county, or both, has not been so designated by the county clerk, then the publication herein required shall be made in a weekly or daily newspaper of the county, or both, as the case may be, which is closest to, such county, provided that any such newspaper meets all the other requirements of this paragraph. A copy or notice published in a newspaper other than the newspaper or newspapers designated by the county clerk shall not be deemed to be one of the publications required by this paragraph.

Notwithstanding any other provision of law, a foreign professional service limited liability company shall not include for purposes of subparagraphs five-a and five-b of this paragraph, any foreign professional service limited liability company which is (i) an investment adviser as defined in the Investment Advisers Act of 1940 or a commodity pool operator or commodity trading advisor as defined in the Commodity Exchange Act, or (ii) a collective investment vehicle or any direct or indirect subsidiary and affiliates thereof sponsored, advised or managed by an investment adviser, commodity pool operator or commodity trading advisor as set forth in item (i) of this sentence. The notice shall include: (1) the name of the foreign professional service limited liability company; (2) the date of filing of the application for authority with the department of state; (3) the jurisdiction and date of its organization; (4) the county within this state, in which the office of the foreign professional service limited liability company is to be located; (4-a) the city, town or village therein together with the number and street where such office is to be located, or, if the street address of such office has not been determined at the time the notice is prepared for publication, the following statement: "The street address of the foreign professional service limited liability company's office has not yet been determined."; (5) a statement that the secretary of state has been designated as agent of the foreign professional service limited liability company upon whom process against it may be served and the post office address within or without this state to which the secretary of state shall mail a copy of any process against it served upon him or her; (5-a) the names of the ten persons, or such lesser number of persons as permitted in this subparagraph who are actively engaged in the business and affairs of the foreign professional service limited liability company and who, under the laws of the jurisdiction under which the foreign professional service limited liability company is formed, are members, managers or other authorized persons having the most valuable type of aggregate rights in such company as provided for under the laws of such jurisdiction. In complying with the provisions of this subparagraph, the foreign professional service limited liability company may elect to select any one of the aggregate rights components of such company recognized, under such laws of such jurisdiction provided that in the event each of such component items have less than ten members, managers or other authorized persons, as the case may be, such professional service limited liability company shall select such a component item which has the greatest number of members, managers or other authorized persons, as the case may be; (5-b) the following statement: "The inclusion of the name of a person in this notice does not necessarily indicate that such person is personally liable for the debts, obligations or liabilities of the foreign professional limited liability company, and such person's liability, if any, under applicable law is neither increased nor decreased by reason of this notice."; (6) if the foreign professional service limited liability company is to have a registered agent, his or her name and address within this state and a statement that the registered agent is to be the agent of the foreign professional service limited liability company upon whom process

against it may be served; (7) the address of the office required to be maintained in the jurisdiction of its organization by the laws of that jurisdiction or, if not so required, of the principal office of the foreign professional service limited liability company; (8) the name and address of the authorized officer in its jurisdiction of organization where a copy of its certificate of organization is filed or, if no public filing of its certificate of organization is required by the law of its jurisdiction of organization, a statement that the foreign professional service limited liability company shall provide, on request, a copy thereof with all amendments thereto (if such documents are in a foreign language, a translation thereof under oath of the translator shall be attached thereto), and the name and post office address of the person responsible for providing such copies; and (9) the character or purpose of the business of such foreign professional service limited liability company. Where, at any time after completion of the first of the four weekly publications required by this paragraph and prior to the completion of the fourth such weekly publication, there is a change in any of the information contained in the copy or notice as published, the foreign professional service limited liability company may complete the remaining publications of the original copy or notice, and the foreign professional service limited liability company shall not be required to publish any further or amended copy or notice. Where, at any time after completion of the four weekly publications required by this paragraph, there is a change to any of the information contained in the copy or notice as published, no further or amended publication or republication shall be required to be made. If within one hundred twenty days after the filing of its application for authority with the department of state, proof of such publication, consisting of the certificate of publication of the foreign professional service limited liability company with the affidavits of publication of the newspapers annexed thereto has not been filed with the department of state, the authority of such foreign professional service limited liability company to carry on, conduct or transact any business in this state shall be suspended, effective as of the expiration of such one hundred twenty day period. Neither the failure of a foreign professional service limited liability company to cause such copy or notice to be published and such certificate of publication and affidavits of publication to be filed with the department of state within such one hundred twenty day period nor the suspension of such foreign professional service limited liability company's authority to carry on, conduct or transact business in this state pursuant to this paragraph shall limit or impair the validity of any contract or act of such foreign professional service limited liability company, or any right or remedy of any other party under or by virtue of any contract, act or omission of such foreign professional service limited liability company, or the right of any other party to maintain any action or special proceeding on any such contract, act or omission, or right of such foreign professional service limited liability company to defend any action or special proceeding in this state. If, at any time following the suspension of a foreign professional service limited liability company's authority to carry on, conduct or transact business in this state pursuant to this paragraph, such foreign professional service limited liability company shall cause proof of publication in substantial compliance with the provisions (other than the one hundred twenty day period) of this paragraph, consisting of the certificate of publication of the foreign professional service limited liability company with the affidavits of publication of the newspapers annexed thereto, to be filed with the department of state, such suspension of such foreign professional service limited liability company's authority to carry on, conduct or transact business shall be annulled.

(ii)(1) A foreign professional service limited liability company which was formed and filed its application for authority with the department of state prior to the effective date of this paragraph and complied with the publication and filing requirements of this subdivision as in effect prior to such effective date shall not be required to make any publication or republication or any filing under paragraph (i) of this subdivision, and shall not be subject to suspension pursuant to this subdivision.

(2) Within eighteen months after the effective date of this paragraph, a foreign professional service limited liability company which was formed and filed its application for authority with the department of state prior to such effective date and which did not comply with the publication and filing requirements of this subdivision as in effect prior to such effective date shall publish a copy of its application for authority or a notice containing the substance thereof in the manner required (other than the one hundred twenty day period) by this paragraph as in effect prior to such effective date and file proof of such publication, consisting of the certificate of publication of the foreign professional service limited liability company with the affidavits of publication of the newspapers annexed thereto, with the department of state.

(3) If a foreign professional service limited liability company that is subject to the provisions of subparagraph two of this paragraph fails to file the required proof of publication with the department of state within eighteen months after the effective date of this paragraph, its authority to carry on, conduct or transact any business in this state shall be suspended, effective as of the expiration of such eighteen month period.

(4) Neither the failure of a foreign professional service limited liability company that is subject to the provisions of subparagraph two of this paragraph to fully comply with the provisions of said subparagraph two of this paragraph nor the suspension of such foreign professional service limited liability company's authority to carry on, conduct or transact any business in this state pursuant to subparagraph three of this paragraph shall impair or limit the validity of any contract or act of such foreign professional service limited liability company, or any right or remedy of any other party under or by virtue of any contract, act or omission of such foreign professional service limited liability company, or the right of any other party to maintain any action or special proceeding on any such contract, act or omission, or right of such foreign professional service limited liability company to defend any action or special proceeding in this state.

(5) If, at any time following the suspension of a foreign professional service limited liability company's authority to carry on, conduct or transact business in this state, pursuant to subparagraph three of this paragraph, such foreign professional service limited liability company shall cause proof of publication in substantial compliance with the provisions (other than the one hundred twenty day period) of paragraph (i) of this subdivision, consisting of the certificate of publication of the foreign professional service limited liability company with the affidavits of publication of the newspapers annexed thereto, to be filed with the department of state, such suspension of such foreign professional service limited liability company's authority to carry on, conduct or transact business shall be annulled.

(6) For the purposes of this paragraph, a foreign professional service limited liability company which was formed and filed its application for authority with the department of state prior to the effective date of this paragraph shall be deemed to have complied with the publication and filing requirements of this subdivision as in effect prior to such effective date if (i) the foreign professional service limited liability company was formed and filed its application for authority with the department of state on or after January first,

nineteen hundred ninety-nine and prior to such effective date and the foreign professional service limited liability company filed at least one affidavit of the printer or publisher of a newspaper with the department of state at any time prior to such effective date, or (ii) the foreign professional service limited liability company was formed and filed its application for authority with the department of state prior to January first, nineteen hundred ninety-nine, without regard to whether the foreign professional service limited liability company did or did not file any affidavit of the printer or publisher of a newspaper with the secretary of state.

(iii) The information in a notice published pursuant to this subdivision shall be presumed to be in compliance with and satisfaction of the requirements of this subdivision. In particular, but not by way of limitation, the list of names of persons included in such notice pursuant to subparagraph five-a of paragraph (i) of this subdivision shall be presumed to be complete and accurate and to be in compliance with and satisfaction of the requirements of this subdivision, and neither the omission of any name or names which should have been included in such list, nor the inclusion of any name or names which should not have been included in such list, nor any misspelling of or other irregularity with respect to any name or names included in such list, shall negate or otherwise limit or impair the effectiveness of such notice or the publication thereof, provided that such omission, inclusion, misspelling or irregularity was not willfully made with the intention of deceiving the public.

* NB Effective June 1, 2006

§ 1307. (Reserved)

§ 1308. Regulation of professions.

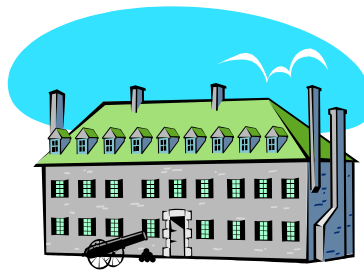
- (a) This article shall not repeal, modify or restrict any provision of the education law or the judiciary law or any rules or regulations adopted thereunder regulating the professions referred to in the education law or the judiciary law except to the extent in conflict herewith.
- (b) A foreign professional service limited liability company, other than a foreign professional service limited liability company authorized to practice law, shall be under the supervision of the regents of the university of the state of New York and be subject to disciplinary proceedings and penalties, and its authority to do business shall be subject to suspension, revocation or annulment for cause, in the same manner and to the same extent as is provided with respect to individuals and their licenses, certificates and registrations in title eight of the education law relating to the applicable profession. Notwithstanding the provisions of this subdivision, a foreign professional service limited liability company authorized to practice medicine shall be subject to the pre-hearing procedures and hearing procedures as are provided with respect to individual physicians and their licenses in Title II-A of article two of the public health law.
- (c) A foreign professional service limited liability company authorized to practice law shall be subject to the regulation and control of, and its authority to do business shall be subject to suspension, revocation or annulment for cause by, the appellate division of the supreme court and the court of appeals in the same manner and to the same extent provided in the judiciary law with respect to individual attorneys and counselors-at-law. Such limited liability company need not qualify for any certification under section four hundred sixty-four of the judiciary law, take an oath of office under section four hundred

sixty-six of the judiciary law or register under section four hundred sixty-seven of the judiciary law.

§ 1309. Licensing of individuals.

No member, manager or employee of a foreign professional service limited liability company who is an individual shall practice his or her profession in this state unless such individual is duly licensed to practice such profession in this state.

- End of Excerpt from Article 13 -



9. Frequently Asked Questions

The following is excerpted from [the website of the New York Office of the Professions](#):

Practice Issues

1. In New York State, who can practice professional engineering?

Section 7202 of the New York State Education Law states that, "Only a person licensed or otherwise authorized under this article shall practice engineering or use the title 'professional engineer'...." A "person licensed" is an individual that has qualified by education, experience and examination and has been issued a New York State professional engineering license by the State Education Department.



2. Who would be considered "otherwise authorized"?

Persons "otherwise authorized" may include an individual person (but not a corporation of any kind) licensed in another state that has applied for and received a limited permit to practice for a specific time period or with respect to a specific project.

3. What kind of business entities can provide professional engineering services?

Professional engineering services may be provided by the following business entities:

- **Professional service corporations (PSC) authorized under Article 15 (domestic - New York) of the New York State Business Corporation Law.** All shareholders, officers and directors must be licensed by New York State in the profession(s) they are practicing.
- **Professional service corporations (PSC) authorized under Article 15-A (foreign PSCs) of the New York State Business Corporation Law.** Only the individual(s) actually providing professional services must be licensed in New York State. All other officers, directors and shareholders must be licensed in some jurisdiction.
- **Professional limited liability companies and foreign professional limited liability companies.** All members must be licensed to provide professional services in New York State.
- **Partnerships, limited liability partnerships and foreign limited liability partnerships.** All partners must be licensed to provide professional services in New York State.

4. Are business entities required to be certified to provide professional engineering services?

All business entities legally permitted to provide professional engineering services in New York State are required to obtain a "Certificate of Authorization to Provide Engineering Services in New York State" from the State Education Department according to Section 7210 of the New York State Education Law. This requirement applies to all types of business entities listed in

Item #3 as well as general business corporations that are authorized pursuant to section 7209(6) of the Education Law - the "grandfathered" corporations (see Item 6).

An [application for a "Certificate of Authorization to Provide Engineering Services in New York State" \(COA\)](#) [pcco.pdf, 4 pages, 33K] may be printed from this site, or by contacting the Office of the Professions, Professional Corporations Unit at 518-474-3817 Ext. 400; fax 518-473-5515; e-mail opcorp@mail.nysed.gov.

5. Can individual licensees obtain a "Certificate of Authorization" to provide engineering services in New York State?

Yes - licensed individuals who are legally permitted to practice engineering in New York State can obtain a "Certificate of Authorization" according to Section 7210 of New York State Education Law. Individual licensees are not required to do so, however. For more information on obtaining a "Certificate of Authorization", contact the Office of the Professions, Professional Corporations Unit at 518-474-3817 Ext. 400; fax 518-473-5515; e-mail opcorp@mail.nysed.gov.

6. Is a business entity that provides both professional engineering and land surveying services required to obtain two (2) Certificates of Authorization?

Yes - business entities, as listed in item #3, that are legally permitted to provide professional engineering and land surveying services in New York State are required to obtain two (2) Certificates of Authorization; one Certificate to provide professional engineering services and a second Certificate to provide land surveying services. For more information contact the Office of Professions, Professional Corporations Unit at 518-474-3817 Ext. 400; Fax 518-473-5515; e-mail opcorp@mail.nysed.gov.

7. Can a general business corporation, an "inc.", provide professional engineering services?

Generally speaking, no. However, there is a finite group of general business corporations that may provide professional engineering services. These corporations were in existence and providing professional engineering services on April 15, 1935, and continuously thereafter, were lawfully engaged in the practice of professional engineering in New York State. State law requires that the chief executive officer be a New York State licensed professional engineer. (These corporations are often referred to as "grandfathered" corporations). They may be bought and sold and may or may not retain a corporate address in New York. However, as long as they retain their corporate identity and stay in compliance with New York laws, they may continue to provide professional engineering services in New York.

8. Can a general business corporation that is authorized to practice engineering in another state do so in New York?

No entity or individual except those described in the preceding (including a general business corporation that may be authorized under the laws of another state to practice there) may practice professional engineering in New York State. A foreign professional service corporation is exempt from this general prohibition as previously described.

9. Can a person who is licensed in New York and is an officer or employee of an out-of-state business corporation that provides professional engineering services in the other state provide engineering services in New York as an officer or employee of that company?

No, not as an employee or an officer of that company. A person who is licensed (or otherwise authorized) to practice in New York State and is an officer or employee of a general business corporation operating in New York State or in a state other than New York can not provide professional engineering services in New York as an officer or employee of that firm, but can do so as an individual. In other words, a contract with a New York client must be between the individual licensee and the client and not the corporate employer and the client.

10. Can an entity not authorized to provide professional engineering services in New York, such as a general contractor, subcontract with a licensed professional engineer in order to provide such services?

No. An entity not authorized to provide professional engineering services, such as a general contractor, can not subcontract with a licensed professional engineer in order to provide engineering services to a third party client. The basis for professional regulation is that the service of the professional must be provided directly from the professional to the client without any unlicensed third party between the client and the professional. This unlicensed third party may have other interests (such as financial) that could jeopardize the level and/or quality of the professional service received by the client.

11. What are the consequences of someone engaging in unlicensed or unauthorized practice?

The laws of the State are clear in regard to unauthorized practice. Section 6512.1 of the Education Law makes it a class E felony for anyone not authorized to practice who practices or offers to practice or holds himself out as being able to practice professional engineering. Section 6509 defines professional misconduct as, among other things, permitting, aiding or abetting an unlicensed person to perform activities requiring a license; and, section 6512.2 makes it a class E felony for anyone, including a public official, to knowingly aid or abet three or more unlicensed persons practice a profession requiring a license.

12. What is 'design delegation'?

The New York State [Board of Regents](#) has adopted a revision to [section 29.3\(b\)](#) in its rules on unprofessional conduct for the design professions. This revision, which became effective June 14, 1996, describes activities of licensed professionals which will not be considered to be unprofessional conduct. In order to assist design professionals to better understand its meaning and applicability, the following "plain language" interpretation of the revision has been prepared.

- It is not unprofessional conduct for a licensed professional to delegate or assign the performance of a professional service through an unlicensed third party, such as a contractor or subcontractor, to another licensee;
- It is not unprofessional conduct for the licensee to whom the work is delegated to accept and perform such work;

- Under these circumstances, the unlicensed third party would not be considered to be engaging in illegal practice;
- The work that can be delegated must be limited to work that is "ancillary" to the main project components. This remains to be more specifically defined through standards of practice developed by the State boards;
- The licensee delegating the work must specify all of the design parameters that the design must meet;
- The licensee performing the design has to sign and certify that it has met these parameters;
- The licensee who has delegated the design function, upon receiving the design, must review and approve the design as meeting the design parameters that were specified and to ensure that the designed element can be integrated into the overall project; and,
- A licensee is always responsible for his or her work even if such work has been endorsed or accepted by another licensee.

13. In New York State, who can provide home inspection of residential buildings for compensation?

Real Property Law was amended September 2004 by adding a new Article 12-B "The Home Inspection Professional Licensing Act." Starting December 31, 2005 a license issued by the NYS Department of State (DOS) will be required for persons engaged in performing home inspections of residential buildings for compensation. Exempt from this licensure requirement are Architects and Professional Engineers licensed and currently registered by NYS Office of Professions who are lawfully practicing within the scope of their profession. For more information on the Home Inspection Professional Licensing Act, visit the DOS website at <http://www.dos.state.ny.us/lcns/homeinspector.htm>.

14. When may a Land Surveyor, authorized agent or employee of such licensee, when performing surveying services in accordance with Education Law, section 7203 of Article 145, enter or cross lands necessary to perform surveying services?

In accordance with General Obligations Law Section 9-105 a land surveyor, authorized agent or employee may cross or enter land when:

- "reasonable efforts" have been made to notify the landowner and if applicable the lessee, that they have an intention to enter the land to make a survey. Notification should include the name of the land surveyor, scheduled date, and time of entry and duration of survey. In addition, the Land Surveyor should document their attempts at notification, and these attempts should be in writing.
- operations related to the survey upon such land are performed during reasonable hours and within a reasonable distance from the property line of the land being surveyed.
- proper identification as to registration or employment is carried and displayed upon request.

15. What are the consequences of a land surveyor, authorized agent or employee for non-compliance with right of entry requirements established in General Obligation Law Section 9-105 in question No. 14?

The licensee may, where circumstances warrant, be found guilty of misconduct in accordance with the Rules of the Board of Regents Part 29.1 - willful or grossly negligent failure to comply with Federal, State or local laws, rules or regulations governing the practice of the profession. In addition, failure to comply with the right of entry requirements of General Obligation Law 9-105 could remove any protection the land surveyor, agent or employee may have under the law.

Please note: under this new statute, the land surveyor, agent or employee would appear to continue to be civilly liable for damage to land or personal property and may not enter any building or structure on such land.

16. What is the difference between "licensure" and "registration"?

When an individual successfully completes the licensure requirements they are awarded a professional license. The license is valid for life unless it is revoked or surrendered.

Professional engineers and land surveyors in New York must register with the State Education Department every three years to practice their profession.

Continuing Education

17. What is an hour of continuing education?

An hour of continuing education is one contact hour of at least 50 minutes in duration. Most continuing education providers give credit in hours; however, you may also see credit given in continuing education units.

One continuing education unit (CEU) equals 10 contact hours. Therefore, .1 CEU equals one contact hour. To convert CEU's to contact hours, multiply by 10. To convert contact hours to CEU's divide the contact hour by ten.

Individuals completing college-level course work should note that one-semester hour of college level course work equals 15 contact hours and one-quarter hour of college-level course work equals 10 contact hours.

18. If I complete more hours of continuing education than is required during my registration period, can I use them toward the hours required in my next registration period?

No, continuing education hours cannot be carried over to subsequent registration periods.

19. Am I required to complete a certain number of hours of continuing education each year during my registration period?

No. You can complete the hours any time during the three-year registration period as long as you have completed the required hours prior to the expiration date of your registration, unless you have had a lapse in your registration. If this is the case, the requirements outlined in question 9 would apply. However, we recommend that you complete courses each year so you are sure to have them completed before it is time to reregister.

20. What is acceptable continuing education?

Acceptable continuing education includes courses and educational activities.

- Courses: A minimum of 18 hours of continuing education must be completed in courses for professional engineers and a minimum of 16 hours of continuing education must be completed in courses for land surveyors. All 36 hours for professional engineers or 24 hours for land surveyors may be completed through acceptable courses.
- Educational Activities: A maximum of 18 hours may be in educational activities for professional engineers and a maximum of 8 hours may be in educational activities for land surveyors.

21. What are acceptable courses for continuing education?

To be acceptable the courses must be:

- administered by an approved New York State sponsor (provider) and
- in an approved subject area and
- in an approved format.

In addition to the requirements above, for a course to be considered acceptable, a student must have the opportunity for immediate interaction with an instructor/presenter, e.g. a seminar, workshop, lecture, technical presentation, etc.

22. What are appropriate subjects for continuing education?

Not all courses and educational activities offered by an approved sponsor are acceptable for continuing education credit in New York State. Courses and educational activities must contribute to the professional practice of professional engineering or land surveying. The subject matter of the course or educational activity must be related to professional practice. Subject areas that are not so related, such as, risk management, limiting the design professional's liability, project management related to profitability and maximizing fees, marketing and public relations, insurance, laws related to arbitration, mediation, liens (unless they related to safeguarding the health, safety, and welfare of the public), real estate, real estate development, expanding a design professional's business, basic Auto CAD, personal development, general office management, accounting/financial planning, succession planning, zoning as it relates to increasing a developer

or engineer/land surveyor's profitability, design build (unless it includes information on the laws related to design build and its limitations in New York State) are non-acceptable subjects.

Service on Boards and/or professional committees, and active participation in technical and/or professional organizations are not eligible for continuing education credit.

Acceptable subjects may include:

- Professional Engineering:
aerospace engineering, agricultural engineering, architectural engineering, bioengineering, ceramic engineering, chemical engineering, civil engineering, construction engineering, control systems engineering, electrical/computer engineering, environmental engineering, fire protection engineering, geological engineering, industrial engineering, manufacturing engineering, mechanical engineering, materials/metallurgical engineering, mining/mineral engineering, naval architecture/marine engineering, nuclear/radiological engineering, ocean engineering, petroleum engineering, structural engineering, systems engineering, architecture, land surveying; or other matters of law and/or ethics which contribute to the professional practice in engineering and the health, safety, and/or welfare of the public; and in other topics which contribute to the professional practice of engineering as such practice is defined in section 7201 of the Education Law.
- Land Surveying:
Land surveying methods and techniques; or other matters of law and/or ethics which contribute to the practice of land surveying and the health safety, and/or welfare of the public; and in other topics which contribute to the professional practice of engineering as such practice is defined in section 7203 of the Education Law.

23. Can I study on my own rather than complete courses or educational activities?

No. Independent study or informal group "study clubs" and/or "book clubs" of professional engineers or land surveyors that are not approved sponsors cannot be accepted. Continuing education offered by an approved sponsor assures appropriate course format, effective evaluation and necessary record keeping.

24. Are courses limited to a traditional "classroom setting" in which I am in the same room with the instructor?

No, however you must be able to interact with the instructor. Examples include: a live lecture, a telecourse or teleconference in which you and the instructor can speak directly with each other; a course in which you and the other practitioners discuss a taped presentation with a facilitator's assistance; a computerized course in which you are able to interact directly with the instructor. On the other hand, a televised lecture with no means of direct interaction would not be acceptable as a live course even if it were a live telecast.

25. What records will I have to keep?

Sponsors must provide a Certificate of Completion to licensees who completed courses or educational activities for continuing education credit. The information on each course or educational activity should be retained in your records for six years from the date of completion.

A Certificate of Completion should include the following information:

- title of the course or program, subject area, and any identification number assigned to it by the sponsor
- number of hours completed
- the sponsor's name and any identifying number
- verification by the sponsor of your attendance
- the date and location of the course or activity

26. What information must I provide the State Education Department when I renew my registration?

Send your completed registration form, on which you will attest that you completed the required continuing education hours, together with the registration fee, which is currently \$210, and the continuing education fee, which is currently \$45, for a total of \$255.

27. Do I have to send my continuing education records to the State Education Department when I reregister?

No. On the registration renewal form you will be required to certify that you have completed the required continuing education. You should retain your continuing education records in your files for a period of 6 years after the date of completion of the continuing education. However, you are required to make your continuing education records available for inspection by the Department upon our request. We audit random samples of mandatory continuing education records to assure compliance with the continuing education requirement.

28. What documentation must I provide if my continuing education records are audited?

Upon request, you must provide the Department with your records of completion for each approved continuing education course or activity. In no cases will self-reporting forms be acceptable for New York State credit.

29. What if the audit reveals discrepancies?

You may be subject to charges of professional misconduct. Willfully making or filing a false report is unprofessional conduct, according to Section 29.1 of the Rules of the Board of Regents. Penalties may include censure and reprimand, fine, and/or suspension or revocation of your license to practice in New York State.

30. What if I fail to complete the required number of hours?

If you request, the Department, at its discretion, may issue you a conditional registration. The conditional registration is valid for one year only and is not renewable. To be granted a conditional registration you would have to:

- agree to complete the required hours of continuing education from the previous registration period during the period of conditional registration,
- complete the regular continuing education requirement at a rate of 1 hour per month, and
- pay the fee for the conditional registration, which is currently \$255.

At the end of the conditional registration period, you must submit to the Department, your continuing education records certifying that you have completed the required continuing education and pay the regular registration and continuing education fee, which is currently \$255, for the remaining two years of the registration period.

31. What if I do not meet the continuing education requirement and simply do not renew my registration?

Fine, as long as you are not practicing your profession in New York State. Your status will remain "not registered" until you meet the continuing education requirement and submit a registration renewal application with the appropriate fee. If you practice your profession while unregistered or after the Department has denied renewal of your registration for failure to report completion of the required hours of continuing education, you are subject to charges of professional misconduct.

32. What if, due to circumstances beyond my control, I am having difficulty meeting the continuing education requirement?

The Department may grant an adjustment (not an exemption) to the requirement for: poor health certified by a physician; a specific physical or mental disability certified by an appropriate health care professional; extended active duty with the armed forces of the United States; or extreme hardship which, in the judgment of the Department, makes it impossible for you to comply with the continuing education requirements in a timely manner. You must request an adjustment from the Office of the State Board for Engineering and Land Surveying and provide written documentation of the circumstances preventing you from complying with the requirements.

Filing a Complaint

33. How do I file a complaint?

You will need to complete a [complaint form](#) (PDF). Send your completed complaint form directly to the [regional office](#) nearest you or fax it to our main professional discipline office at 212-951-6537.

If you would like to speak with someone first about professional misconduct or unlicensed practice, you may call our complaint hotline at 1-800-442-8106, contact our nearest [regional office](#), or e-mail conduct@mail.nysed.gov for more information.

34. If I want to file a complaint, do I have to be sure the professional is guilty?

No. If you think you may have been the victim of professional misconduct, file a [complaint form](#) (PDF). The Office of the Professions will look into the complaint and determine if misconduct has occurred.

35. Can you order a licensed professional to give me my money back?

OP does not have the authority to get involved in fee disputes; except for programs such as Worker's Compensation and Medicaid, where fees are set by law, licensees can charge whatever they believe appropriate. We can assist you, however, if you believe that you were charged for work that was not done or which was done poorly.

Following Up on a Complaint

36. What happens after I file a complaint?

Staff in the appropriate [regional office](#) follows up on each complaint. Members of the State Board for the profession may be consulted during the investigation. If substantial evidence of misconduct is found, we will pursue disciplinary action. Cases of illegal (unlicensed) practice may be handled administratively, or they may be referred after investigation to the State Attorney General for criminal prosecution.

37. Can I get information about a complaint when it is under investigation?

You may contact the investigator assigned to your complaint at any time during the investigation to learn about the status of your complaint. You will also be informed if the complaint has been referred for further action.

38. How long does an investigation take? When will I hear about the outcome?

Almost all investigations are completed within 9 months or less. The time needed to prosecute cases varies, although many cases are concluded through negotiated settlements. Complicated cases may take 2 years or more (from initial complaint to final action) to resolve. If you file a professional misconduct complaint, you will be informed of the status of your complaint and the final outcome.

Disciplinary Actions

39. What happens when a licensed professional is the subject of disciplinary action?

Minor forms of misconduct may be handled through advisory letters or administrative warnings issued by the Office of the Professions; these administrative actions are confidential. The penalties for more serious misconduct range from a fine to the revocation of the license to practice, in accordance with the nature of the misconduct and its consequences. The Board of Regents, which oversees the State Education Department and its Office of the Professions, reviews and takes final action on the most serious professional discipline cases.

If the disciplined professional's license to practice has not been revoked or suspended, the Office of the Professions may monitor the professional to ensure that probationary terms--such as periodic employer reports or retraining courses--are met.

40. If a license is revoked or suspended, is it permanent?

With limited exceptions, individuals who have surrendered their licenses or had their licenses revoked must wait at least three years to apply for license restoration. While the Board of Regents has the authority to restore a professional license, such restoration is not a right. The former licensee must prove that he or she is worthy of the privilege of having a professional license.

- End of Excerpt from the NY OP's Website -



Course Summary

To safeguard the life, health, property and welfare of the public, licensed professional engineers/land surveyors must fully understand the Board Laws and Rules. A licensee who violates any provision of the Laws and Rules may be subject to disciplinary action, such as a fine, reprimand, probation, suspension or revocation of the license.



- End -

Disclaimer: The information in this course is provided as general guidance and may not reflect the most current laws, rules and regulations that apply. Should you have specific questions about the application of the specific laws in the formation of a professional entity or regarding your specific practice, you should seek personal legal counsel.