



INTERchange

Informing Professional Engineers of developments that influence their honored profession

BOARD MEMBERS

Mr. Garth Thomas, Jr., PE
Board President
South Charleston, WV

Dr. Larry Nottingham, PE
Board Vice-President
Duck, WV

Mr. L.A. Gates, PE
Board Secretary
Beckley, WV

Mr. Bhajan Saluja
Charleston, WV

Mr. Edward Robinson, PE
Cross Lanes, WV



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of Registration for
Professional Engineers**

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**LESLEY L. ROSIER-TABOR, PE,
EXECUTIVE DIRECTOR**

As of October 2022, the current WV PE Board has accumulated a total of 218 years of professional engineering experience throughout their careers. As the Board's Executive Director, and adding in my 25 years as a PE, there's a grand total of 243 years of licensure and professional engineering experience coming together to do our very best to carry out the Board's mission of protecting the health, safety and welfare of the public.

Board Members

Garth Thomas licensed 1991
31 years

Larry Nottingham licensed 1969
53 years

L.A. Gates licensed 1984
38 years

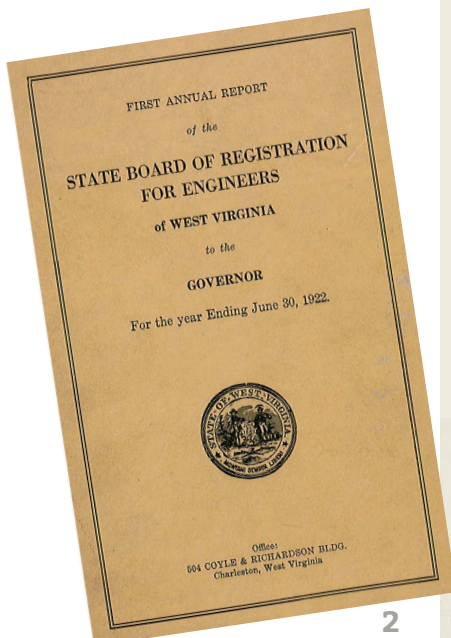
Bhajan Saluja licensed 1973
49 years

Edward Robinson licensed 1975
47 years

Board Staff

Lesley Rosier-Tabor licensed 1997
25 years

**GRAND TOTAL of WV PE Board
Office experience = 243 years**

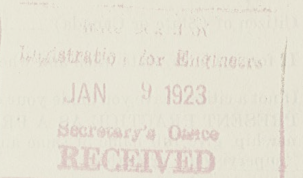


STATE BOARD OF REGISTRATION FOR ENGINEERS

504 Coyle & Richardson Building

CHARLESTON

Cheers to 100 Years!



Over the last 100 years, the West Virginia State Board of Registration for Professional Engineers has been licensing qualified individuals who have made valuable contributions to our great state. Undoubtedly, today we see a much different engineering profession than the one in existence 100 years ago, but nevertheless, challenges are met head on and solutions to complex problems are at the heart of the work of our profession.

During the last year, Governor Jim Justice honored the valuable contributions of our profession and joined the WV PE Board in celebrating the agency's 100th year of existence by issuing his congratulatory remarks in a formal proclamation. Below are some excerpts from his November 2021 recognition:

WHEREAS, the establishment of state licensing programs governing engineering were created to provide protection to the public health, safety and welfare, and the first engineering licensure law was signed in 1907; and

WHEREAS, in West Virginia, the licensing of professional engineers was enacted in 1921, and there are now over 9,200 individuals licensed as professional engineers, over 5,100 certified as engineering interns and over 3,500 companies authorized to offer professional engineering services in our state; and

WHEREAS, professional engineers licensed in West Virginia are significant contributors to innovations in infrastructure, utilities, technologies, and public health while safeguarding life, health and property and promoting the public welfare; and

WHEREAS, a licensed professional engineer's signature and seal symbolizes reliability and integrity;

WHEREAS, as of July 27, 2021, the West Virginia State Board of Registration for Professional Engineers celebrated their 100th Anniversary of existence. Per West Virginia Legislative Act effective July 27, 1921, under Governor Ephraim Franklin Morgan, the West Virginia State Board of Registration for Professional Engineers Board was formed; and

WHEREAS, as of November 21, 2021, the West Virginia State Board of Registration for Professional Engineers will celebrate the 100th Anniversary of their first meeting. This West Virginia Board first convened an official meeting on November 21, 1921 at 10am in the Coyle and Richardson Building, Charleston, WV; and

NOW, THEREFORE, I, Jim Justice, Governor of the State of West Virginia, do hereby proclaim the fiscal year of 2022 as The Centennial Celebratory Year of Engineering Licensure in the State of West Virginia to officially recognize 100 years of regulation of the engineering profession in this great state and to urge all citizens to join me in the special observance.

The Board members, and Board staff, were honored and humbled to receive this recognition which is now prominently framed and displayed in our Board room. Last week, as I was preparing for an upcoming Board meeting, I found myself sentimental and thinking about my first few weeks with the Board back in June 2002. I remember accepting the job offer for this newly-created position and wondering exactly what my responsibilities would entail. I then reflected on the true meaning of my own PE license that landed me this new career. As you may have guessed, in my position, I do not have the need to ink my stamp. In fact, I believe it is buried deep in a file cabinet drawer collecting dust, so I simply take for granted it is there. However, each and every day when we approve new PE licenses, I am reminded of the pride and sense of accomplishment of the new generation of engineers who earn this same title of "Professional Engineer." These PEs are embarking on a new journey, starting careers that will be filled with great responsibility but also great reward. From the time we wake in the morning, until we lay our head down to rest at night, our lives are touched by the work of these unsung "heroes." I am proud to be a member of this humble profession and to have played a small part in the important work of this agency during its first 100 years of existence.

THE CHARLESTON NATIONAL BANK
CHARLESTON, W. VA.

In Account with

INTERchange



Left to right in photo:

Mr. Bhajan Saluja
Board Member
Term expired June 30, 2021

Mr. L.A. Gates, PE
Board Secretary
Term expires June 30, 2025

Dr. Larry Nottingham, PE
Board Vice-President
Term expires June 30, 2027

Mr. Edward Robinson, PE, PS
Board Member
Term expired June 30, 2019

Mr. Garth Thomas, Jr., PE,
Board President
Term expires June 30, 2023

Board Updates

REAPPOINTMENT OF MR. L.A. GATES, PE

Just a few weeks after our Fall 2021 **INTERchange** publication went to print, the West Virginia State Board of Registration for Professional Engineers received a welcomed reappointment to the Board. Per a gubernatorial notification made by Governor Jim Justice on October 29, 2021, Mr. L.A. Gates was reappointed to his first full 5-year term ending on June 30, 2025. Mr. Gates was originally appointed on June 8, 2016 to succeed Mr. Leonard "Joe" Timms, PE, and filled an abbreviated term. Mr. Gates has a B.S. in Mining Engineering from the Colorado School of Mines and a B.S. in Business Administration from West Virginia University. Mr. Gates is from Raleigh County, in the Ninth Senatorial District, and lives in Daniels, West Virginia.

REAPPOINTMENT OF DR. LARRY NOTTINGHAM, PE

The West Virginia State Board of Registration for Professional Engineers is pleased to announce another reappointment to the Board. Per a gubernatorial notification made by Governor Jim Justice on August 2, 2022, Dr. Larry Nottingham was reappointed to his second full term ending on June 30, 2027. Dr. Nottingham was originally appointed on December 13, 2016 through June 30, 2017, to fill the short, unexpired term of Mr. Richard Plymale, Jr., who moved to South Carolina. Dr. Nottingham was then reappointed by Governor Justice to his first full 5-year term on June 29, 2017. Dr. Nottingham has a B.S. in Civil Engineering from West Virginia Institute of Technology, a M.S. in Civil Engineering from the University of Pittsburgh, and a Ph.D. in Civil Engineering from the University of Florida. Dr. Nottingham is from Braxton County, in the Twelfth Senatorial District, and lives in Duck, West Virginia.

NCEES COMMITTEE APPOINTMENTS

In June of 2022, the following individuals received notification from the National Council of Examiners for Engineering and Surveying (NCEES) regarding their selection by then President-Elect Duhamel to NCEES Committees for the 2022-23 administrative year.

- **Garth E. Thomas, Jr., PE**, who serves as the current President of the WV PE Board, was appointed to serve as a Member on the Committee on Examination Policy and Procedures Committee.
- **Lesley L. Rosier-Tabor, PE**, who serves as the WV PE Board's Executive Director, was appointed to serve as a Member of the Member Board Administrators Committee.

Both individuals accepted their appointments and have already participated in their first, informal planning meetings with their respective committees during the 2022 NCEES Annual Meeting which took place in August 2022 in Carlsbad, CA.

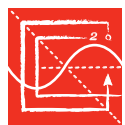
The WV PE Board would like to thank President Duhamel for his confidence in their abilities to make a meaningful contribution to the committee's work and charges outlined for the coming year. In addition, the appointees would like to thank the WV PE Board for their continued support of their involvement with NCEES in our efforts to assist the Member Boards in safeguarding the health, safety and welfare of the general public.

2022-2023 BOARD LEADERSHIP ELECTION RESULTS

During the May 24, 2022 Board meeting, the WV PE Board discussed the need for FY2023 officer elections and Mr. Robinson made a motion, seconded by Mr. Saluja, to retain the same Board officers for the upcoming fiscal year. Upon unanimous vote, the current officer slate remained unchanged:

- **Mr. Garth Thomas, Jr., PE**
Board President
- **Dr. Larry Nottingham, PE**
Board Vice-President
- **Mr. L.A. Gates, PE**
Board Secretary

NCEES Honors West Virginia Professional Engineer Garth Thomas



NCEES
advancing licensure for
engineers and surveyors

ABOUT NCEES

The National Council of Examiners for Engineering and Surveying is a nonprofit organization made up of engineering and surveying licensing boards from all U.S. states, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. Since its founding in 1920, NCEES has been committed to advancing licensure for engineers and surveyors in order to safeguard the health, safety, and welfare of the U.S. public.

NCEES helps its member licensing boards carry out their duties to regulate the professions of engineering and surveying. It develops best-practice models for state licensure laws and regulations and promotes uniformity among the states. It develops and administers the exams used for engineering and surveying licensure throughout the country. It also provides services to help licensed engineers and surveyors practice their professions in other U.S. states and territories. For more information, please visit ncees.org.



Garth Thomas Jr., P.E., of South Charleston, West Virginia, has been awarded the NCEES Distinguished Examination Service Award for his dedicated service to NCEES and the engineering profession. Thomas was recognized during the organization's 101st Annual Meeting in Carlsbad, California, on August 25, 2022.



His service to NCEES began in 2004 when he joined the Fundamentals of Engineering (FE) Exam Development Committee. Thomas served as chair of the FE Exam Chemical Module Committee in 2008-10. In 2014 and 2020 he participated in a professional activities and knowledge study, or PAKS, for the FE Chemical exam specifications, specifically participating on the cut score panel. He has served for four years on the NCEES Committee on Education and is currently serving as chair.

Throughout over 20 years of service, Thomas has helped guide the FE exam through significant changes. He was involved in the Preliminary Item Analysis (PIA) for the FE exam and has been at the forefront of transitioning the exam to the current computer-based testing (CBT) format. Thomas assisted with the development of the FE Reference Handbook and practice exams that were published during the transition.

Currently, Thomas is serving his second term, now as president, on the West Virginia State Board of Registration for Professional Engineers. He had a long career as a faculty member, Department Chair of Chemical Engineering, and Associate Campus Provost at the West Virginia University Institute of Technology.





Public Service RECOGNITION WEEK

RECOGNIZING TWO DECADES OF PUBLIC SERVICE WITH THE WV PE BOARD

Every year since 1985, the first week of May has been set aside as Public Service Recognition Week, a time to thank dedicated public workers at all levels of government who work tirelessly on our behalf, accomplishing extraordinary things to make our lives better and our country stronger.

Choosing a career in a state government position is extremely noble and often means working behind the scenes to simply get important jobs done. For this reason, the State of West Virginia observes Public Service Recognition Week (PSRW) during May of each year and celebrates those public employees who have achieved twenty or more years of public service. Both our Board Executive Director, Lesley Rosier-Tabor, P.E., and our Administrative Assistant, Tara Smith, have been with our Board for 20 years as of June 2022. Lesley has a total of 28 years of state service as she joined the Board after 8 years as an Associate Professor of Civil Engineering at West Virginia Institute of Technology. For Tara, the 20 years of state service represents her entire career and, for this, she was presented with a formal certificate from the Office of the Governor, signed by Jim Justice, as well as a congratulatory letter from Mark Scott, Cabinet Secretary for the WV Department of Administration.

The Board members honored both Tara and Lesley at their July 2022 Board meeting and publicly provided their heartfelt "Thank You" to these employees for their hard work, dedication, and many years of service to the State of West Virginia. They both have reached these recognizable milestones in their careers by being loyal and dedicated employees which are the foundation to any successful organization. The Board would also like to recognize our additional staff who have 8, 11, and 39 years of service with state government, all who continue to work tirelessly to assist the Board in carrying out their mission of protecting the health, safety and welfare of the public.



PICTURED: Tara Smith, Administrative Assistant, and Garth Thomas, PE, Board President

"The State of West Virginia's greatest asset is its people, and your years of service stands out to your peers. Your abilities and contributions are an important key to the success of our entire operation. As you reach this milestone in your career and set your sights on future goals, take a moment to reflect upon your past accomplishments and take pride in knowing that you are an important member of our team. Your experience is valued, and your work is appreciated."

– Mark Scott,
Cabinet Secretary,
WV Department of
Administration





Alternatives to Licensure: What are the options?

INSIGHT FROM THE BOARD PRESIDENT

GARTH E. THOMAS, JR., PE, BOARD PRESIDENT

Think tanks and legislative bodies have recently been reexamining the justification for professional/occupational licensure and considering whether less restrictive alternatives may be desirable and feasible (1, 2, 3). These assessments are being driven by the following observations (1): occupational licensing has grown rapidly with more than one-quarter of U.S. workers now requiring a license to be employed, licensing can reduce employment opportunities and wages for excluded workers, and licensing laws lead to higher prices for goods and services with no guarantee of improved quality. On the other hand, well designed and implemented licensing can provide safeguards against serious harms, provide clear standards for professional development and training, and provide motivation for individuals to invest in the training and experience needed for a professional career path. Advocates of deregulation argue that the economic impacts are serious enough to justify the use of less restrictive options whenever possible.

This article will briefly review proposed alternatives to licensure, using the hierarchy of approaches to professional/occupational regulation as developed by Hemphill and Carpenter (4). These are summarized as follows from least to most restrictive of practice:

- **Market competition/no government regulation**
- **Alternative dispute resolution, which includes mediation and arbitration**
- **Private civil action in court to remedy consumer harm**
- **Consumer service ratings sites and service quality self-disclosure**
- **Third-party professional certification and maintenance.**
- **Voluntary bonding**
- **Deceptive trade practice acts**
- **Inspections**
- **Bonding or insurance**
- **Registration**
- **State certification**
- **Licensure**

The first six options place the burden of evaluating the capabilities of the service provider on the customer. An argument for regulation has been the need to address the problem of asymmetric information; service providers know their capabilities and previous performance, but the customers do not. Deregulation advocates (6) argue that consumers of services now have more information available concerning service providers thanks to quality rating services and customer review sites. Unfortunately, review sites are not uniform in quality and can be manipulated to provide favorable reviews. Where licensing has been instituted as a quality-of-service measure and potential harms are minor or nonexistent, these approaches may be desirable replacements for licensure.

Third-party professional certification can be a valid means of ensuring the qualifications of practitioners. The National Commission for Certifying Agencies has accredited approximately 300 professional and occupational programs from more than 120 organizations (7). These occupational certification programs cover practitioners such as nurses, respiratory therapists, counselors, and emergency medical technicians. The specialty certifications provided by the American Board of Physician Specialties are generally considered to be as important as a license for specialists. Such occupational certifications have rigorous requirements, including continuing education units. Many organizations make such certifications a requirement for employment. However, many of these certifications are required in addition to a license. It is not clear that certification by itself would be sufficient to protect the public from malpractice where serious harms are possible.

Bonding can provide a guarantee of performance and protect the customer against losses from damages caused by the service provider. Such bonds are commonly required for construction projects and large trade deals. However, if bonds were generally required for all projects as a substitute for licensing, the costs for such bonds could create an economic barrier for practitioners that would be greater than that created by licensure.

The remaining tiers of the hierarchy are governmental actions to regulate service providers. The least restrictive of these, deceptive trade practice acts, empower state



attorneys general to prosecute fraudulent practices, such as a provider falsely claiming to have certain qualifications. Such acts can prevent misrepresentation but do not otherwise address the qualifications of a service provider or protect against the harm that could be caused by an unqualified service provider.

Inspection focuses on how a service is provided rather than the qualifications of the provider. Examples would be the inspection of electrical and plumbing work to ensure that the work meets current safety codes, or the inspection of food handling facilities to ensure that sanitary codes are being followed. Inspections are often required in addition to licensing of providers, but advocates of deregulation argue that inspection can be used in place of the licensing of service providers. However, inspection of a wide range of professional work could require more bureaucracy and governmental intrusion than is required with licensure.

Mandatory bonding or insurance outsources management of risks to bonding and insurance companies. The implication is that an insurer considers a company or individual to be qualified to provide a service if the insurer is willing to provide coverage for potential liabilities. Bonding and insurance requirements are meant to protect consumers from loss, while allowing for free exercise of occupational practice. It is expected that insurance companies would want the service provider to have a well-regarded certification or license before issuing a bond. As a result, this option may have little effect on reducing barriers to professional/occupational practice.

The option of registration requires providers to notify the government of their name, address, and a description of their services, but does not mandate personal credentials. Registration does not provide any assurances regarding the qualifications of the service provider or any mechanisms for dealing with malpractice. At best it may provide an address for a process server in a civil action.

Under state certification, anyone can practice an occupation or profession, but only those who meet the state's qualifications can be certified and use a designated title, such as certified interior designer or certified financial planner. Certification indicates to potential customers and employers that

practitioners meet the requirements of their certifying boards but does not bar uncertified individuals from entering an occupation or profession. The use of the term certification can be confusing because some regulatory bodies use the term certification when they license practitioners. This is the case for teacher certification since the certification is required for teachers in public schools. State certification provides a means for identifying qualified providers but does not provide a mechanism to deal with malpractice outside of civil legal action.

Licensure is the most restrictive form of occupational regulation because it limits the practice of an occupation only to individuals who meet requirements established by the state and remain in good standing. However, it may be the most appropriate regulation where serious harm could result from malpractice. A study by Nunn and Scheffler (5) concludes that deregulation advocates don't give enough weight to public safety when professional malpractice could lead to serious and substantial harms. They found that many of the studies that show no effect of regulation on public safety only consider differences in regulations between states rather than the effects of the broad-based professional licensure that has been in place for many years. Their conclusion was that for professions where there were serious concerns about potential harm to the public, elimination of licensure is the wrong focus. Better approaches for both practitioners and the public are to eliminate unnecessary requirements for licensure and to improve licensure mobility between states.

While it is beneficial to eliminate unnecessary barriers to enter occupations, legislators need to be aware that there are differing levels of risk to the public associated with each occupation or profession. Licensure serves a useful purpose if it is well-designed and administered. Broadly eliminating or weakening licensure without considering all impacts is not good policy. Efforts should be directed to ensuring that the requirements for licensure are reasonable, the costs for a license are as low as possible, and that properly licensed individuals can move between jurisdictions as easily as possible.

Sources used for this article:

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5. Occupational Licensing and The Limits of Public Choice Theory, Ryan Nunn and Gabriel Scheffler, Administrative Law Review Accord, 4, 2, p 29 - 41, 2019.
6. The End of Asymmetric Information? Tyler Cowen and Alex Tabarrok, Shirley V. Svorny, Joshua Gans, Jeff Ely, Cato Unbound, April 2015. www.cato-unbound.org/issues/april-2015/end-asymmetric-information/
7. The Difference Between Licensure and Board Certification, American Board of Physician Specialties. www.abpsus.org/board-certifications/

Board Disciplinary Actions

Disclaimer: Every effort has been made to ensure that the enforcement information is correct; however this information should not be relied upon without verification from the Board office or website. It should be noted that the names of companies and individuals listed may be similar to the names of parties who have not had enforcement actions taken against them. Should you have any specific questions regarding the disciplinary actions noted below, please contact the Board office.

In meeting its mission of safeguarding life, health and property, and to promote the public welfare, the WV Board actively enforces the statutes and rules that fall within its jurisdiction. Below is a summary of formal complaints that resulted in disciplinary action since the 2021 newsletter. Numerous other investigations were conducted, some resulting in formal complaints which are still pending; some dismissed because the charges were unsubstantiated or considered trivial; and some closed after acceptable corrective action or warning.

Disciplinary actions can be either a result of a formal hearing resulting in a Board Order or settled informally resulting in a Consent Order. These orders are public records. If you are interested in knowing more about the nature of the complaint, you may request a copy pursuant to the State's Freedom of Information Act. All Orders are posted on the Board website.

All civil penalties are deposited in the state's general fund. Administrative costs are made payable to the WV PE Board and are retained by the Board to offset costs incurred in the investigation and complaint resolution efforts. Administrative costs may be waived if the complaint is resolved with a minimum of expense.

Case #: **C2021-22 - John K. Henshaw**

Violation: Provided misinformation to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]

Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 9/23/21.

Case #: **C2022-06 - Zak Consulting Engineers LLC**

Violation: Practicing engineering without a Certificate of Authorization. [§30-13-17, §30-13-21(a)(4)]

Resolution: Consent Order signed. Civil penalty of \$250 paid. Case closed 10/7/21.

Case #: **C2022-07 - Cervantes Consulting Engineers, LLC**

Violation: Practicing engineering without a Certificate of Authorization. [§30-13-17, §30-13-21(a)(4)]

Resolution: Consent Order signed. Civil penalty of \$250 paid. Case closed 1/27/22.

Case #: **C2022-08 - Integrated Design Consultants, LLC**

Violation: Practicing engineering without a Certificate of Authorization. [§30-13-17, §30-13-21(a)(4)]

Resolution: Consent Order signed. Civil penalty of \$750 paid. Case closed 2/8/22.

Case #: **C2022-09 - Berardi + Partners, Inc.**

Violation: Provided misinformation to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]

Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 2/16/22.

Case #: **C2022-10 - Southern Corrosion, Inc.**

Violation: Provided misinformation to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]

Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 3/22/22.

Case #: **C2022-11 - Brasil W. Hamrick, Jr.**

Violation: Misuse of seal. [§30-13-21(a)(9)]

Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 3/22/22.

Case #: **C2022-14 - Pure Power Engineering, Inc.**

Violation: Practicing engineering without a Certificate of Authorization. [§30-13-17, §30-13-21(a)(4)]

Resolution: Consent Order signed. Civil penalty of \$250 paid. Case closed 5/5/22.

Case #: **C2022-15 - Allen Engineering and Science**

Violation: Provided misinformation to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]

Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 4/19/22.

Case #: **C2022-16 - Architectural Design Guild Corporation**

Violation: Provided misinformation to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]

Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 5/5/22.

Case #: **C2022-17 - BEL Environmental Engineering, LLC**

Violation: Provided misinformation to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]

Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 5/5/22.

Case #: **C2022-18 - Brandstetter Carroll, Inc.**

Violation: Provided misinformation to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]

Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 4/19/22.

Case #: **C2022-19 - Edwin L. Heim Company**

Violation: Provided misinformation to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]

Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 4/12/22.

Case #: **C2022-20 - Engineering Professionals, Inc.**

Violation: Provided misinformation to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]

Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 4/19/22.

Case #: **C2022-21 - Engineers Northwest, Inc., P.S.**

Violation: Provided misinformation to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]

Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 3/31/22.

Case #: **C2022-22 - Epic Engineering Group**

Violation: Provided misinformation to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]

Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 4/12/22.

Case #: **C2022-23 - GHD Inc.**

Violation: Provided misinformation to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]

Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 4/19/22.

Case #: **C2022-24 - GHT Limited**

Violation: Provided misinformation to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]

Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 4/12/22.

Case #: **C2022-25 - Industrial Tech Services**

Violation: Provided misinformation to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]

Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 4/19/22.

Case #: **C2022-26 - JDS Consulting**

Violation: Provided misinformation to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]

Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 8/19/22.

Case #: **C2022-27 - Kemron Environmental Services, Inc.**

Violation: Provided misinformation to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]

Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 4/12/22.

Case #: **C2022-28 - Love Engineering**

Violation: Provided misinformation to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]

Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 6/7/22.

Case #: **C2022-29 - McKim & Creed, Inc.**

Violation: Provided misinformation to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]

Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 5/24/22.

Case #: **C2022-30 - SBI Engineers PLLC**

Violation: Provided misinformation to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]

Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 4/12/22.

Case #: **C2022-31 - Sheffler & Company, Inc.**

Violation: Provided misinformation to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]

Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 4/19/22.

Case #: **C2022-32 - Taylor & Viola Structural Engineers**

Violation: Provided misinformation to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]

Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 4/19/22.

Case #: **C2022-33 - The Roberts Group, P.S.C.**

Violation: Provided misinformation to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]

Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 4/19/22.

Case #: **C2022-34 - Pickering Associates**

Violation: Aiding or assisting another to violate Engineering Law. Failure to Seal. [§30-13-16(c), §30-13-21(a)(8)]

Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 8/19/22.

Case #: **C2022-38 - Braun Intertec Corporation**

Violation: Practicing engineering without a Certificate of Authorization. [§30-13-17, §30-13-21(a)(4)]

Resolution: Consent Order signed. Civil penalty of \$250 paid. Case closed 7/19/22.



Duty To Disclose

COUNSEL'S COLUMN

N. EDWARD EAGLOSKI, II, BOARD COUNSEL



The Enforcement Exchange is a nationwide, web-based database that allows NCEES member boards to enter disciplinary actions taken against violators and to review disciplinary actions posted by other jurisdictions. Since its creation in the early 1990s, this members-only database has proven to be a tremendous resource for agencies seeking information on licensure applicants and on licensees to verify that their licensees have not committed violations in other jurisdictions. This information typically consists of identifying information, agency case number, violation, penalty, and whether it is an original or reciprocal disciplinary action.

The Enforcement Exchange strengthens the initial licensure application review, as well as the on-going biennial renewal review process, because it acts as a central repository for participating boards to post disciplinary actions and has assisted member boards in carrying out their statutory responsibility of administering their respective laws related to the regulation of the engineering and surveying professions.

Over this past fiscal year, spanning July 2021 to June 2022, twenty-two of the Board's forty Complaints were based upon firms failing to report disciplinary actions from other jurisdictions on their COA renewals. The good news is that there were ten firms which did report such disciplinary actions. Each of these reported actions was reviewed, and none merited reciprocal Board action. Most of the 22 unreported actions were discovered by a review of the NCEES Enforcement Exchange records. For the two years reviewed, 2020 and 2021, there were 219 recorded actions against firms in the NCEES Enforcement Exchange database, which accounted for 20 of the 22 Complaints. Two non-disclosures were discovered through review of other board publications. The same methodology will be employed for the upcoming PE renewals. As of June 30, 2022, there are 680 reported disciplinary actions through NCEES, of which, several WV licensed PEs have been identified.

WV PEs have a duty to disclose another jurisdiction's disciplinary actions against him/her. West Virginia Codified State Rule §7 C.S.R. 1-12.6. This section requires that:

[a] registered PE who has been fined, received a reprimand, or had his or her registration revoked, suspended or denied in another jurisdiction for reasons or causes which this Board finds would constitute a violation of the law governing the practice of engineering in this state or any rule promulgated by this Board, is sufficient cause for the Board to levy a fine, reprimand, or deny, revoke or suspend a registration to practice engineering by the registrant in this state. Any such actions by other jurisdictions shall be reported on the renewal form. For purposes of this section, "another jurisdiction" means any other governing entity, including a licensing board for another profession. (Emphasis added).

So, Professional Engineers renewing their licenses for the years 2023 and 2024, will be required to disclose another board's disciplinary/investigatory actions regarding them on their renewal applications. So, where does one report this on the renewal application? The PE renewal sets forth the following question under the Disclosure section:

Since the date of your last WV PE renewal (or if this is your first WV PE renewal, since the date of your initial PE application) have you been subject to any disciplinary action or investigation by any local, state or national regulatory board (including those in WV), or have you been convicted of a felony or a misdemeanor (excluding minor traffic violations)? ☐ Yes / ☐ No

If you answer "Yes" to the above question, you will be required to provide an explanation of the events, a description of the investigation, disciplinary proceeding, type of sanctions imposed, or any other documents relating to this matter, including applicable criminal conviction records, state police or court records. You also have the right to include any additional information you wish to have considered with this application (i.e., reference letters, documentation of rehabilitation, etc.).

Note that the question also requests information regarding criminal convictions. The authority for this question is West Virginia Codified State Rule §7 C.S.R. 2-4.6.a. An engineer who has been convicted of a crime that reflects adversely on the engineer's honesty, trustworthiness or fitness as an engineer, or of any felony, shall, within thirty days of entry of the order or judgment of conviction, forward a copy of the order or judgment to the Board's Administrator. A plea or verdict of guilty or a conviction after a plea of nolo contendere shall be deemed to be a conviction within the meaning of this rule. This rule has a thirty-day notice requirement for the PE to inform the Board of a conviction. This is the basis upon which the Board asks for and collects this information at renewal times.

So, the failure to disclose to the Board a disciplinary action or a criminal conviction, will likely lead to a charge of "Perpetrating fraud or deceit in obtaining or attempting to obtain or renew a certificate of registration or certification of authorization." (W.Va. Code §30-13-21(a)(1).) This violation has a maximum daily penalty of Five Thousand Dollars. (West Virginia Codified State Rule §7 C.S.R. 1-15.1.)

You can and should take this opportunity to notify the Board through the bi-annual PE renewal process. The instruction above suggests that for disciplinary actions, one is to provide at the very least a copy of the disciplinary document, commonly known as a Consent Agreement, Consent Order, Settlement Agreement, or Order. As for investigations which do not result in any disciplinary actions, there may be a Complaint, Notice of Investigation letter, or a Dismissal letter or Order. If applicable, copies of these documents should also be provided. In both cases of disciplinary actions and investigations, a cover letter explaining the circumstances should be also submitted. If there is a need for additional information, then the Board will contact you. Your timely disclosure should keep you safe from a Complaint under W.Va. Code §30-13-21(a)(1) "Perpetrating fraud or deceit in renewing your PE License."

Under West Virginia Codified State Rule §7 C.S.R. 2-4.7.b. a disciplined PE has only ten days to notify the Board of any form of public discipline that has been imposed by the authorities of another jurisdiction. This includes voluntarily surrendering his or her license to practice engineering in connection with such disciplinary proceeding

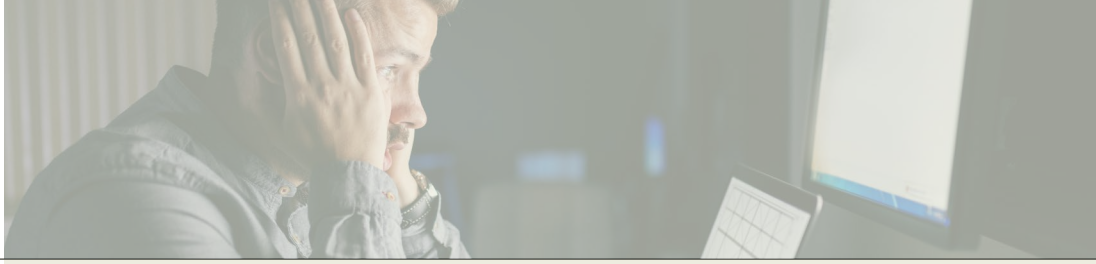
As for criminal convictions, the Board is to be notified within 30 days of entry of the Order of Criminal Judgment, Order of Conviction, or Sentencing Order. Likewise, a copy of the order should be provided to the Board together with a cover letter explaining the circumstances.

Just a reminder that other board's Engineering Laws may require you (or a firm) to report this information to them. So, the 22 firms which were disciplined by the Board will more than likely have to report the West Virginia disciplinary action to these other boards. Some boards have special forms for you to complete, others do not. As for the timing, I am aware of one board that requires notification within 48-hours, some have 10, 30 or 60-day requirements, others only at times of renewals.

You may ask, how do I report a WV Board disciplinary action to other boards. I do not have an answer. However, as of the time of this writing, the NCEES will be holding its annual meeting in August, 2022. I have asked the NCEES to discuss creating a web-based resource where boards would list their approved methods of notification, and the time periods for such disclosure. I hope this inquiry will lead to a service similar to the NCEES CPC Tracking service for reporting continuing professional competency hours. (CPC). It could be a one-stop shop for disclosures to the boards where you are / were licensed.

So, if you are a PE, and you are disciplined, it is best practice to notify the Board within 10 days of the event, and if you are convicted of a felony or a crime that reflects adversely on the engineer's honesty, trustworthiness or fitness as an engineer, it is best practice to notify the Board within 30 days of the conviction. At the very least, investigations, disciplinary actions and the afore-described criminal convictions should be disclosed when completing your PE renewal application.





WARNING! Concerns With 3rd Party Agencies Completing Renewals

TIFFANY COLEMAN,
ADMINISTRATIVE ASSISTANT II

Excerpt from email received in March
2022 from a distraught licensee

Please know I am trying to work on getting our license reinstated. Unfortunately, we tried to use a third party to help with the burden of our licensing renewals and, in short, it did not go well. Please advise as I would like to make sure this is cleared up and we are in good standing as soon as possible ... I completely understand (this is not your fault); this renewal was the straw that broke the camel's back.

To the busy and hardworking professional, obtaining, renewing, and keeping up with professional licensure requirements, that admittedly vary from state to state, can seem daunting and time-consuming. To lighten the load, some firms and individuals hire third-party professional licensing agencies to assist with their licensure needs.

While letting someone else handle the work for you may seem like the easy, stress-free route, that is often not the case. In fact, it may end up causing a bigger burden and headache in the end. We frequently encounter issues with third-party professional licensing agencies and feel compelled to let you know about some of the issues so you can prevent them from happening to you.

■ Incomplete PE Applications

It is not uncommon for our office to receive incomplete applications. When this happens, staff will pick up the telephone, make a call, gather the missing information and work expeditiously to process the application without much delay. When a third-party agency has completed the application, the process is typically more complex. Usually, no contact information is given and we are tasked with calling the agency and tracking down the appropriate person who completed the application forms. This typically results in being transferred multiple times, leaving multiple voice mail messages or sending countless emails to obtain the missing information. Ultimately, this creates more work, delays the application turnaround time, and hinders your ability to legally practice.

■ Inaccurate PE Renewals

Most of the alarming issues that we encounter with third-party agencies are during the renewal season. Third-party agencies act on behalf of the licensee, renew their license and even sign off on this important document, often unfamiliar with the content and not understanding the significance of their responsibility. Third-party staff often make mistakes reporting important information such as the correct number of continuing education hours to claim or not reporting disciplinary actions or investigations that have occurred since the PE's last renewal. Providing false, inaccurate or erroneous information in either of these cases could result in significant trouble for the PE. If the number of hours reported on the renewal cannot be documented in an audit, or if a disclosure is not properly made with regard to disciplinary actions or criminal convictions, one could find themselves in violation of WV Engineering Law for providing misinformation to the Board.

■ Inaccurate COA renewals

Given the third-party agency staff has limited (and perhaps no) direct knowledge of the workings of the engineering firm for which they are completing the renewal, it comes as no surprise that their renewal submissions often contain a plethora of errors. While some are minor in nature, others can have a direct impact. Third-party agencies have admitted to randomly selecting answers to questions they were unsure of, instead of placing a call to the firm in question to obtain the proper response. One such example is the number of professional engineers who are employed by the firm and operate under the FEIN of the COA. If this occurs, they will end up paying the wrong renewal fee given the fee structure differences for sole proprietors vs. small firms vs. large firms. To put this into perspective, during the 2020-2021 COA renewal season, we had to contact 264 firms regarding

discrepancies in payments and found that most of the renewals in question had been completed by a third-party vendor. Gathering the proper responses, updating records, issuing refunds and collecting new and correct payments can be a tedious process. When this happens, the staff at the WV PE Board must reset the online renewal, the user must then step back through the entire renewal correcting their responses, pay the appropriate renewal fee, and staff will then request a refund for the initial payment made in error. Each payment and refund must then be properly documented to meet daily reconciliation requirements and future auditing needs.

So, what's the worst that could happen when the third-party you hired messes up?

Unfortunately, every renewal season we hear from frantic individuals who are astonished to learn that their license has lapsed because the third-party company they trusted and paid to handle their license renewals failed to do so. Careless mistakes, such as this, are critical and impede the order of business. Without an active license, you cannot legally practice or even offer engineering services. To rectify the matter, the individual and/or firm must reinstate their license, which requires completing application packages, obtaining notarized signatures, and paying reinstatement fees, at a minimum.

In some cases, the mistake can result in even bigger headaches, such as a formal complaint being filed by the Board which could result in disciplinary action. As you will see in the accompanying pages of this newsletter, our Board's Counsel provided details on the large number of complaints filed and the resulting actions and civil penalties paid for situations where renewal submissions contained misinformation to the Board, specifically, where disclosures weren't made and discipline was not reported. On the PE renewal, you (the registrant) must check a box on the final page of the renewals certifying the following:

- 1. The foregoing information regarding my employment, continuing education, child support obligations, recent investigations, and disciplinary actions is true and correct.*
- 2. I have obtained the minimum continuing education which is required to renew my WV PE license on a biennial basis. I understand if selected for audit following the close of this renewal period, I will be required to submit detailed records to support all hours claimed in this renewal. In addition, I understand I must earn and retain documentation for at least thirty (30) PDHs during the next two years (beginning today through December 2024) and prior to the issuance of my next biennial license renewal in December 2024.*
- 3. I have read the WV Engineering Law (including both statute and rules of the WV Board of Registration for Professional Engineers) and understand that I can be disciplined for providing misinformation to the Board. Specifically, I understand 30-13-21(a)(1) which states "The board may suspend or revoke or refuse to issue, restore or renew a certificate of registration, or place on probation, impose a civil penalty or reprimand any professional engineer who has perpetrated any fraud or deceit in obtaining or attempting to obtain or renew a certificate of registration or certificate of authorization."*

As a registrant, you are responsible for your license and, for most, that license means livelihood. Do not find yourself in one of the situations mentioned. If you plan to use a third-party vendor to help with licensing needs, make sure to select a reputable agency with good reviews, provide them with updated and correct information, remain in contact with the agency, fact check and be sure to verify that tasks have been successfully completed. Although an error may have been made by another individual acting on your behalf, you are responsible, and you may face the consequences.



Renewal Updates and Status Report

UPCOMING WV PE RENEWAL REMINDER

It's time to renew your personal WV Professional Engineer's registration. All individuals in possession of an active WV PE license will be required to renew by December 31, 2022. As outlined in West Virginia Engineering Law, our agency is required to send notification at least 30 days prior to the expiration of a license, meaning no later than December 1st of odd numbered years for COAs and December 1st of even numbered years for active and retired PEs. Renewal notifications are typically mailed in mid to late November and the WV State Treasurer's Office activates our online license renewal system at the same time. If you have an active WV PE license, renewal instructions were enclosed with this newsletter and a live PE renewal link is now posted on our website as well. A number of courtesy email notifications will also be sent to the PE's record email address(es) throughout the renewal season until successfully renewed. Upon successful renewal, we will no longer forward renewal reminders and one will be able to print a copy of their full renewal submission, their personalized PE wallet card with expiration date, and a payment receipt. An email confirmation will also arrive within seconds from the West Virginia State Treasurer's office indicating their online credit card payment was processed via the e-Government payment system.

If you have any questions regarding the PE renewal process, please do not hesitate to contact our office by emailing info@wvpebd.org or calling 304-558-3554.

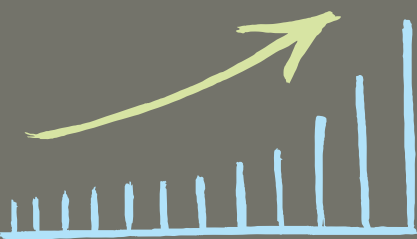
WV COA RENEWAL SEASON SUMMARY

COA Status Summary for Recent 2022-2023 COA Renewal

- Active COAs receiving COA Renewal Notification in November 2021 = **3472**
- Non-Responding COAs resulting in Lapsed Status after COA Renewal Season in February 2022 = **93**

To view or download a complete roster of the Active PE licenses, Firm Certificates of Authorizations (COAs), and Retired PEs, simply visit our website License/COA Verification page at services.wvpebd.org/verification/. There you will find access to a real-time, online verification search tool that shows if a particular individual and/or firm is authorized to practice or offer engineering services in West Virginia.

Please be reminded that all licensees should report any updates such as disciplinary actions, a change in address, employer or email to the Board within 30 days. W.Va. Code R. §7-1-6.5 entitled *Updated Information* states, "It is the EI's or PE's responsibility to notify the Board within thirty days of any change in information previously submitted to the Board, such as name change, change of address, change of employer, or similar matter requiring current information." All address and employer updates submitted online, as well as new license activations or licensee status changes, will appear immediately unless an action is required by staff before posting. Should you have any questions about the status of any WV PE or WV COA, simply contact the Board office for assistance.



CURRENT WV PE BOARD STATISTICS:

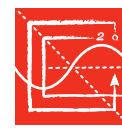
The following is a numerical summary of registered individuals and firms as of September 1, 2022.

Active PEs	9741
Retired PEs	245
Active COAs.....	3418
Engineer Interns.....	5515
TOTAL	18,919

PE RESIDENCY SUMMARY AS OF SEPTEMBER 1, 2022:

Active PES living in WV	1649 (16.9%)
Active PES living outside WV	8092 (83.1%)

National Council of Examiners for Engineering and Surveying



NCEES
advancing licensure for
engineers and surveyors

PE EXAM UPDATES FOR FALL 2022 AND BEYOND

The Principles and Practice of Engineering (PE) exam tests for a minimum level of competency in a particular engineering discipline. It is designed for engineers who have gained a minimum of four years' post-college work experience in their chosen engineering discipline.

For exam-specific information, including exam specifications and standards, as well as the relevant exam schedules, please visit the NCEES website and select your engineering discipline at ncees.org/engineering/pe/.

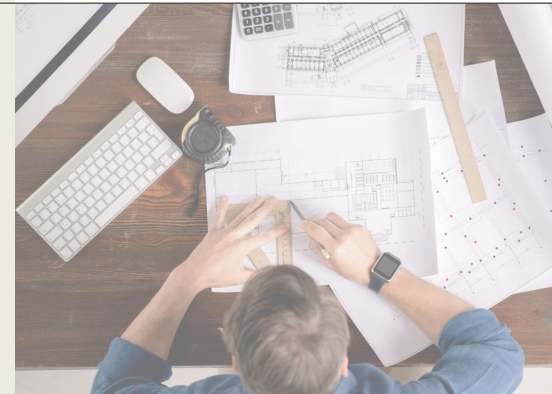
Below is a list of the most recent PE Exam Updates published by NCEES:

- **PE Architectural** – The PE Architectural exam transitioned to computer-based testing (CBT) in October 2022, offering the first exam on Monday, October 17, 2022.
- **PE Control Systems** – The PE Control Systems exam transitioned to computer-based testing (CBT) in October 2022, offering the first exam on Tuesday, October 18, 2022.
- **PE Naval Architecture and Marine Engineering** – The PE Naval Architecture and Marine Engineering exam transitioned to computer-based testing (CBT) in October 2022, offering the first exam on Monday, October 17, 2022.
- **PE Metallurgical and Materials** – The PE Metallurgical and Materials exam transitioned to computer-based testing (CBT) in October 2022, offering the first exam on Monday, October 17, 2022.

NCEES 2021 ANNUAL REPORT AND SQUARED

In March 2022, the WV PE Board received hard copies of both the 2021 NCEES Annual Report and 2021 NCEES Squared publications. NCEES also makes both publications available to the public in an interactive web format. The annual report provides an overview of the NCEES organization's accomplishments and growth over the past fiscal year. This document can be viewed via the NCEES website and you are encouraged to explore the interactive version at ncees.org/annualreport. There, you will find videos from 2021 events and interviews with NCEES members and leadership on the organization's various initiatives.

The printed annual report was mailed to all state licensing boards and was accompanied by 2021 NCEES Squared and the 2021 NCEES annual meeting minutes. Squared is the official NCEES source for engineering and surveying licensure statistics. One of the main purposes of Squared is to make licensure data available to a wide audience, including educators, employers, and the general public.



The NCEES pages contain an overview of recent news releases received from the National Council of Examiners for Engineering and Surveying (NCEES), as well as NCEES Licensure Exchange articles, concerning items that may be of interest to our engineering community. For more information on any of these updates, or to review the full news releases, simply visit the NCEES website at ncees.org.



2021
SQUARED

led by licensed engineers to write and evaluate exam (NCEES) procedures and standards.

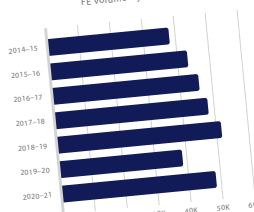
committees continued to plan of meeting in person (in pandemic continued) both in pencil-and-paper format. NCEES took action to safeguard the health, safety, and well-being of its members and staff.

20 and April 2021 administrations over examinees and

(Regional PE January 2021) high administrator, gradually most, if not all, on to CBT for (for: Power exam, (from 1, on to CBT for (for: with first appointments available in January 2022.



FE volume by fiscal year



Transition from pencil-and-paper to CBT 2020-21

NCEES began transitioning the Principles and Practice of Engineering (PE) exams to computer-based testing in 2017-18. All PE Civil exams transitioned to CBT testing in January 2022. The year 2022 is the new target date for completing the NCEES exam transitions to CBT. For more information, visit www.ncees.org/cbt.

	CBT examinees	Pencil-and-paper examinees	Total
FE	48,746	0	48,746
FS	1,629	0	1,629
PE	8,546	22,532	31,078
PS	824	0	824
SE	0	2,488	2,488

Virtual exam meetings 2020-21

	AG	ABC	CHE	CIV	CSE	ELE	ENV	FE	FS	IND	MEC	MET	MMP	NAME	NCE	PET	STA	Total
Number of meetings	2	1	3	5	1	3	2	4	2	2	2	1	3	3	3	3	4	48
Active participants	25	16	53	204	12	56	47	301	26	46	31	75	8	35	33	49	114	1,711



WV State Board of Registration
for Professional Engineers
300 Capitol Street, Suite 910
Charleston, West Virginia 25301

CALENDAR of events - 2023

JAN	9-10	NCEES Member Board Administrators Meeting, Greenville, SC
JAN	24	Board Meeting, WV PE Board Office, Charleston, WV
FEB	19-25	National Engineers E-Week (various Board activities/speaking engagements)
MAR	21	Board Meeting, WV PE Board Office, Charleston, WV
MAR	22-23	WV Construction & Design EXPO (continuing education), Charleston, WV
APR	13-14	NCEES Structural PE Exams (paper/pencil), NCEES Regional Testing Sites
APR	27-29	2023 NCEES Northeast Zone Meeting (joint meeting - all Zones), Houston, TX
MAY	16	Board Meeting, WV PE Board Office, Charleston, WV
JUL	18	Board Meeting, WV PE Board Office, Charleston, WV
AUG	15-18	2023 NCEES Annual Meeting, Boston, MA
SEP	19	Board Meeting, WV PE Board Office, Charleston, WV
OCT	26-27	NCEES Structural PE Exams (paper/pencil), NCEES Regional Testing Sites
NOV	14	Board Meeting, WV PE Board Office, Charleston, WV

For information on NCEES FE and PE Exam registration guidelines and deadlines, visit www.ncees.org.

