

## **CHAPTER 43-19.1 PROFESSIONAL ENGINEERS AND LAND SURVEYORS**

### **43-19.1-01. General provisions.**

In order to safeguard life, health, and property, and to promote the public welfare, the practice of engineering and land surveying in this state is hereby declared to be subject to regulation in the public interest, and it hereby is declared necessary that a state board of registration for professional engineers and land surveyors be established, which in the exercise of its powers is deemed to be an administrative agency within the purview of chapter 28-32. It is unlawful for any person to practice, or to offer to practice, professional engineering or land surveying in this state, as defined in the provisions of this chapter, or to use in connection with the person's name or otherwise assume, or advertise any title or description tending to convey the impression that the person is an engineer or land surveyor, unless such person has been duly registered or exempted under the provisions of this chapter. The right to engage in the practice of engineering or land surveying is deemed a personal right, based on the qualifications of the individual as evidenced by the individual's certificate of registration, which is not transferable.

### **43-19.1-02. Definitions.**

In this chapter unless the context otherwise requires:

1. "Board" means the state board of registration for professional engineers and land surveyors.
2. "Engineer" means a professional engineer.
3. "Engineer intern" means an individual who complies with the requirements for education, experience, and character and who has passed an examination in the fundamental engineering subjects, as provided in sections 43-19.1-12 and 43-19.1-15.
4. "Engineering surveys" means all survey activities required to support the sound conception, planning, design, construction, maintenance, and operation of engineered projects, which include locating or laying out alignments, positions, or elevations for the construction of fixed works. The term does not include the surveying of real property for the establishment of land boundaries, rights of way, easements, and the dependent or independent surveys or resurveys of the public land survey system.
5. "Land surveyor" means an individual engaged in the practice of land surveying.
6. "Land surveyor intern" means an individual who complies with the requirements for education, experience, and character and who has passed an examination in the fundamentals of mathematics and the basic principles of land surveying as required in this chapter and as established by the board.
7. "Practice of engineering and practice of professional engineering" means any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, engineering teaching of advanced engineering subjects or courses related thereto, engineering surveys, and the inspection of construction for the purpose of assuring compliance with drawings and specifications; any of which embraces such service or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, or projects as are incidental to the practice of engineering. A person must be construed to practice or offer to practice engineering if the person practices any branch of the profession of engineering; if the person, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents that the person is an engineer and is able to practice engineering in this state if the person through the use of some other title implies that the person is an engineer or that the person is registered under this chapter; or if the person holds out as able to perform, or does perform any engineering service or work or any other service that is recognized as engineering, for a valuable consideration for others, including the public at large.

8. "Practice of land surveying":
  - a. Means making land boundary determinations by providing or offering to provide professional services using such sciences as mathematics, geodesy, and photogrammetry and involving the making of geometric measurements and gathering related information pertaining to the physical or legal features of the earth; improvements on the earth; and improvements on the space above, on, or below the earth and providing, utilizing, or developing the same into land survey products such as graphics, data, maps, plans, reports, descriptions, or projects. As used in this subsection, professional services include acts of consultation, investigation, testimony evaluation, expert technical testimony, planning, mapping, assembling, and interpreting gathered measurements and information related to any one or more of the following:
    - (1) Determining by measurement the configuration or contour of the earth's surface or the position of fixed objects on the earth's surface;
    - (2) Determining by performing geodetic land surveys the size and shape of the earth or the position of any point on the earth;
    - (3) Locating, relocating, establishing, re-establishing, or retracing property lines or boundaries of any tract of land, road, right of way, or easement;
    - (4) Making any land survey for the division, subdivision, or consolidation of any tract of land;
    - (5) Locating or laying out alignments, positions, or elevations for the construction of fixed works;
    - (6) Determining by the use of principles of land surveying the position for any survey monument, boundary or nonboundary, or reference point and establishing or replacing any such monument or reference point; and
    - (7) Creating, preparing, or modifying electronic or computerized or other data for the purpose of making land boundary determinations relative to the performance of the activities in paragraphs 1 through 6.
  - b. Includes:
    - (1) Engaging in land surveying;
    - (2) By verbal claim, sign, advertisement, letterhead, card, or any other way representing to a person to be a professional land surveyor;
    - (3) Through the use of some other title implying to be a professional land surveyor or that the person is licensed or authorized under this chapter; and
    - (4) Holding out as able to perform or performing any land surveying service or work or any other service designated by the practitioner which is recognized as land surveying.
9. "Professional engineer" means an individual who by reason of special knowledge or use of the mathematical, physical, and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience, is qualified to practice engineering, and who has been registered and licensed by the state board of registration for professional engineers and land surveyors.
10. "Professional land surveyor" means a land surveyor who complies with the requirements for education, experience, and character and who has been registered and licensed by the board.
11. "Responsible charge" means direct control and personal supervision of engineering or surveying work.
12. "Retired registrant" means a duly registered professional engineer or land surveyor who is not engaged in active professional practice and is not required to meet the continuing professional education requirements as prescribed by the board. A retired registrant is issued a certificate of registration indicating "retired" status.

#### **43-19.1-03. Board - Appointments - Terms.**

A state board of registration for professional engineers and land surveyors is hereby created the duty of which is to administer this chapter. The board consists of one professional land

surveyor and four professional engineers. The board members who are professional engineers must be appointed by the governor from among a list of nominees submitted to the governor by the North Dakota society of professional engineers who must have the qualifications required by section 43-19.1-04, such list must include the names of at least three nominees for each vacancy to be filled. The governor shall appoint the professional land surveyor member of the board from a list of nominees submitted by the North Dakota society of professional land surveyors. The list must include the names of at least three nominees for the vacancy to be filled. The members must possess the qualifications required by section 43-19.1-04. The members of the board must be appointed for five-year terms that are staggered so the term of one member expires June thirtieth of each year. Each member of the board shall receive a certificate of appointment from the governor and shall file with the secretary of state a written oath or affirmation for the faithful discharge of the member's official duties. On the expiration of the term of any member, the governor shall appoint for a term of five years a board member having the qualifications required in section 43-19.1-04 to take the place of the member whose term on the board is about to expire. A member may be reappointed. Each member shall hold office until the expiration of the term for which appointed or until a successor has been duly appointed and has qualified.

#### **43-19.1-04. Board - Qualifications.**

Each professional engineer board member must be a professional engineer who is a citizen and resident of this state, has been registered in this state a minimum of eight years, has been engaged in the lawful practice of engineering for at least twelve years, and has had responsible charge of important engineering work for at least five years. Each professional land surveyor board member must be a professional land surveyor who is a citizen and resident of this state, has been registered as a professional land surveyor in this state a minimum of eight years, and has been responsible for important land surveying work for at least five years.

#### **43-19.1-05. Board - Compensation and expenses.**

Each member of the board is entitled to receive per diem, in an amount established by the board which may not exceed one hundred thirty-five dollars, when attending to the work of the board or any of the board's committees and for the time spent in necessary travel and is entitled to be reimbursed for all actual traveling, incidental, and clerical expenses necessarily incurred in carrying out the provisions of this chapter.

#### **43-19.1-06. Board - Removal of members - Vacancies.**

The governor may remove any member of the board for misconduct, incompetency, neglect of duty, or for any sufficient cause, in the manner prescribed by law for removal of state officials. Vacancies in the membership of the board must be filled for the unexpired term by appointment by the governor as provided in section 43-19.1-03.

#### **43-19.1-07. Board - Organization and meetings.**

The board shall hold at least two regular meetings each year. The board shall elect or appoint annually the following officers: a chairman, a vice chairman, and a secretary. A quorum of the board consists of not fewer than three members.

#### **43-19.1-08. Board - Powers.**

The board may:

1. Adopt and amend all bylaws, rules of procedure, and regulations to administer and carry out the provisions of this chapter and for the conduct of the board's affairs and functions which may be reasonably necessary for the proper performance of the board's duties and the regulation of the board's proceedings, meetings, records, and examinations and the conduct thereof, and to adopt a code of ethics that must be binding upon all persons registered under or subject to this chapter.
2. Adopt and have an official seal, which must be affixed to each certificate issued.

3. Employ such clerks, technical experts, and attorneys as the board determines necessary or desirable to carry out this chapter.
4. Hold hearings, administer oaths, and take and record testimony; under the hand of the board's chairman and the seal of the board, subpoena witnesses and compel the witnesses' attendance; require the submission of books, papers, documents, or other pertinent data in any disciplinary matters, or in any case when a violation of this chapter or of the rules or regulations adopted by the board is alleged; and make findings, orders, and determinations that have the force and effect of law which are subject to review by the courts of this state in the manner provided by chapter 28-32. Upon failure or refusal of any person to comply with any such order of the board or to honor the board's subpoena, the board may apply to a court of any jurisdiction to enforce compliance with the order or subpoena.
5. Apply in the name of the state for relief by injunction, without bond, to enforce the provisions of this chapter or to restrain any violation of this chapter. In such proceedings, it is not necessary to allege or prove, either that an adequate remedy at law does not exist or that substantial or irreparable damage would result from the continued violation thereof. The members of the board are not personally liable under this proceeding.

#### **43-19.1-09. Receipts and disbursements.**

The secretary of the board shall receive and account for all moneys derived under the provisions of this chapter and shall deposit and disburse the money derived under this chapter in accordance with section 54-44-12. The secretary shall give a surety bond to the state in such sum as may be required by the board. The premium on the bond is a proper and necessary expense of the board. The secretary shall receive such salary as the board shall determine. The board shall employ clerical or other assistants as are necessary for the proper performance of the board's work and shall make expenditures of this fund for any purpose the board determines is reasonably necessary for the proper performance of the board's duties under this chapter, including the expenses of the board's delegates to meetings of and membership fees to the national council of examiners for engineering and surveying and any of the organization's subdivisions. Under no circumstances may the total amount of warrants issued in payment of the expenses and compensation provided for in this chapter exceed the amount of moneys collected.

#### **43-19.1-10. Records and reports.**

The board shall:

1. Keep a record of the board's proceedings and of all applications for registration. The record must show the name, age, and last-known address of each applicant; the date of application, the place of business of such applicant, the applicant's education, experience, and other qualifications; type of examination required; whether the applicant was rejected; whether a certificate of registration was granted; the date of the action of the board; and such other information as may be deemed necessary by the board. The record of the board is prima facie evidence of the proceeding of the board and a transcript of board proceedings which is certified by the secretary under seal is admissible as evidence with the same force and effect as if the original were produced.
2. Annually, in compliance with state law, submit a report of the board's transactions of the preceding year.

#### **43-19.1-11. Roster.**

A complete roster showing the names and last-known addresses of all professional engineers and land surveyors must be made available by the secretary of the board at intervals as established by board regulations. Copies of this roster must be made available to each registrant and all county auditors and city auditors and may be distributed or sold to the public.

#### **43-19.1-12. General requirements for registration.**

To be eligible for registration as a professional engineer or land surveyor or for certification as an engineer intern or land surveyor intern, an applicant must be of good character and reputation and shall submit a written application to the board containing such information as the board may require together with five references, three of which references must be professional engineers in the case of engineers or three of which references must be professional land surveyors in the case of land surveyors, having personal knowledge of the applicant's engineering or land surveying experience, or in the case of an application for certification as an engineer intern or land surveyor intern, by three character references.

#### **43-19.1-12.1. Conviction not bar to registration - Exceptions.**

Conviction of an offense does not disqualify an individual from registration under this chapter unless the board determines that the offense has a direct bearing upon an individual's ability to serve the public as an engineer or land surveyor or that following conviction of any offense the individual is not sufficiently rehabilitated under section 12.1-33-02.1.

#### **43-19.1-13. Registration without examination - Professional engineers.**

An applicant otherwise qualified must be admitted to registration as a professional engineer without examination if the applicant is:

1. An individual holding a certificate of registration to engage in the practice of engineering, on the basis of comparable qualifications, issued to that applicant by a proper authority of a state, territory, or possession of the United States, the District of Columbia, or any foreign country and who, in the opinion of the board, based upon verified evidence, meets the requirements of this chapter; or
2. An individual registered as a professional engineer by the state of North Dakota under chapter 43-19, on the thirtieth day of June 1967.

#### **43-19.1-14. Registration with examination - Professional engineers.**

An applicant otherwise qualified must be admitted to registration as a professional engineer if the applicant has successfully passed a written examination of at least eight hours in the principles and practice of engineering, as prescribed by the board, and has one of the following additional qualifications:

1. Is an engineer intern with a baccalaureate degree in engineering from an institution offering accredited programs approved by the board as being of satisfactory standing, who has a specific record of an additional four years or more of experience in engineering work of a grade and character which indicates to the board that the applicant may be competent to practice engineering.
2. Is an engineer intern with a baccalaureate degree in engineering from a program that is not accredited but is approved by the board, who has eight years or more of progressive experience in engineering work of a character and grade which indicates to the board that the applicant is competent to practice engineering.
3. Is an engineer intern with a specific record of at least twenty years of lawful practice in engineering work during at least ten years of which the applicant has been in responsible charge of important engineering work which is of a grade and character that indicates to the board that the applicant is competent to practice engineering, who has been approved for the fundamentals of engineering examination by the board before July 1, 2004, and who holds a valid engineer intern certificate as of January 1, 2006.
4. Is an engineer intern who meets one of the educational requirements listed in subsection 1, 2, or 5, who has been a teacher of engineering in a college or university offering an approved engineering curriculum of four years or more, and who has had a minimum of two years of nonteaching engineering experience that is of a character and grade that indicates to the board that the applicant is competent to practice engineering.

5. Is an engineer intern with a baccalaureate degree in an engineering-related program, who has at least twelve years of progressive experience in engineering work of a character and grade which indicates to the board that the applicant is competent to practice engineering.

#### **43-19.1-15. Additional qualifications of engineer interns.**

Except in the case of an individual who filed an application before July 1, 1967, and any subsequent reapplication by such individual, an applicant otherwise qualified must be admitted to certification as an engineer intern. An engineer intern is an individual who has:

1. A baccalaureate degree in engineering from an institution that offers accredited programs approved by the board and has passed the board's written examination of at least eight hours in the fundamentals of engineering shall be certified or enrolled as an engineer intern.
2. A baccalaureate degree in engineering from a program that is not accredited but is approved by the board, who has a specific record of at least four years of experience in engineering work of a grade and character satisfactory to the board, and who passes the board's written examination of at least eight hours in the fundamentals of engineering.
3. A baccalaureate degree in an engineering-related program, who has a specific record of at least six years of experience in engineering work of a grade and character satisfactory to the board, and who passes the board's written examination of at least eight hours in the fundamentals of engineering.

#### **43-19.1-16. Registration - Professional land surveyor.**

An individual who shows, to the satisfaction of the board, that the individual is otherwise qualified and is over the age of eighteen years is eligible for registration as a professional land surveyor, if the individual has passed a board-approved examination regarding state laws and rules or other surveying issues specific to the state and:

1. Holds a certificate of registration to engage in the practice of land surveying issued by proper authority of a state, territory, possession of the United States, the District of Columbia, or any foreign country, based on requirements and qualifications as shown by the individual's application which, in the opinion of the board, are equal to or higher than the requirements of this chapter;
2. Holds a certificate as a land surveyor intern issued by the board and:
  - a. In addition to experience that may be required to qualify for certification as a land surveyor intern, completed at least four years of land surveying experience of a character satisfactory to the board; and
  - b. Passed a board-approved written examination in the principles and practice of land surveying; or
3. Is registered as a land surveyor by the state of North Dakota, under the provisions of former chapter 43-24, on the thirtieth day of June 1967.

#### **43-19.1-16.1. Qualifications of land surveyor interns. (Effective through June 30, 2028)**

1. Before July 1, 2028, an applicant for certification as a land surveyor intern may qualify for certification by meeting the requirements of this section or section 43-19.1-16.2. After June 30, 2028, a qualified applicant for certification as a land surveyor intern must meet the requirements of section 43-19.1-16.2.
2. An applicant for certification as a land surveyor intern who has at least four years of qualifying land surveying experience of a character satisfactory to the board, of which a formal education in an accredited engineering or land surveying curriculum may constitute a part, may receive from the board, upon passing a written examination on the fundamentals of mathematics and the basic principles of land surveying, a certificate stating the applicant has passed the examination and been recorded as a land surveyor intern.

#### **43-19.1-16.2. Qualifications of land surveyor interns.**

The board shall certify as a land surveyor intern an otherwise qualified applicant who has passed a board-approved written examination on the fundamentals of mathematics and the basic principles of land surveying and:

1. Has a baccalaureate degree in land surveying from an institution that offers board-approved accredited programs;
2. Has a baccalaureate degree in a board-approved program other than land surveying and:
  - a. Has board-approved educational training in land surveying in connection with the baccalaureate degree or other program; and
  - b. Has at least two years of qualifying land surveying experience of a character satisfactory to the board;
3. Has an associate degree in land surveying from a board-approved program and has at least two years of qualifying land surveying experience of a character satisfactory to the board; or
4. Has a certificate in land surveying from an institution that offers a board-approved program and has at least four years of qualifying land surveying experience of a character satisfactory to the board.

#### **43-19.1-17. Application for registration.**

Application for registration as a professional engineer or land surveyor or for certification as an engineer intern or land surveyor intern must be on a form prescribed and furnished by the board containing statements made under oath, showing the applicant's education, a detailed summary of the applicant's technical experience, and references as required by this chapter and must be accompanied by registration fees.

##### **43-19.1-17.1. Retired registrant.**

The board may recognize an individual who is no longer practicing as an engineer or land surveyor as a retired registrant.

##### **43-19.1-18. Registration fees.**

The board shall establish registration fees for professional engineers, land surveyors, engineer interns, and land surveyor interns in the amount the board determines necessary to accomplish the purposes of the board as provided in this chapter. The registration fees may not exceed the amount of one hundred dollars for a one-year period or two hundred dollars for a two-year period. If the board denies the issuance of a certificate to an applicant, the fee paid may be retained as an application fee.

##### **43-19.1-19. Examinations.**

Written examinations must be held at such times and places as the board shall determine. Examinations required on fundamental engineering or land surveying subjects may be taken at any time prescribed by the board. The final examinations may not be taken until the applicant has completed a period of engineering or land surveying experience as provided in this chapter. The board shall establish the minimum passing grade on any examination. A candidate failing one examination may apply for re-examination, which may be granted upon payment of a fee established by the board. Any candidate for registration having an average grade that does not meet the standards set by the board may not apply for re-examination for one year from the date of such examination.

##### **43-19.1-20. Certificates.**

The board shall issue a certificate of registration upon payment of the registration fee as provided for in this chapter to any applicant who in the opinion of the board has met the requirements of this chapter. Enrollment cards must be issued to those who qualify as engineer interns or land surveyor interns. Certificates of registration must carry the designation "professional engineer" or "professional land surveyor", must show the full name of the

registrant without any titles, must be numbered, and must be signed by the chairman and the secretary under seal of the board. The issuance of a certificate of registration by the board is prima facie evidence the individual named on the certificate is entitled to all rights and privileges of a professional engineer or land surveyor during the term of which the certificate providing the same has not been revoked or suspended.

#### **43-19.1-21. Seals.**

Each registrant under this chapter upon registration may obtain a seal of the design authorized by the board, bearing the registrant's name, registration number, and the legend "registered professional engineer" or "registered professional land surveyor". Final engineering drawings, specifications, maps, plats, reports, or other documents prepared by a person required to be registered under this chapter, when presented to a client, contractor, subconsultant, or any public agency, must be signed, dated, and stamped with the seal or facsimile of the seal. A working drawing or unfinished document must contain a statement to the effect the drawing or document is preliminary and not for construction, recording purposes, or implementation. It is unlawful for a registrant to affix or permit the registrant's seal and signature or facsimiles thereof to be affixed to any engineering drawings, specifications, maps, plats, reports, or other documents after the expiration or revocation or during the suspension of a certificate, or for the purpose of aiding and abetting any other person to evade or attempt to evade any provision of this chapter.

#### **43-19.1-22. Expirations and renewals.**

A certificate of registration expires on December thirty-first of the year of issuance if registration is on an annual basis and of the year after issuance if issued on a biennial basis and becomes invalid after that date unless renewed. The secretary of the board shall notify every registrant under this chapter of the date of the expiration of the registrant's certificate of registration and the amount of fee required for its renewal. The notice must be mailed to the registrant at the registrant's last-known address at least one month in advance of the expiration of the registrant's certificate. Renewal may be effected at any time before or during the month of December by the payment of a fee as established by the board, not to exceed the fees established in section 43-19.1-18. Renewal of an expired certificate may be effected under rules adopted by the board regarding requirements for re-examination and penalty fees.

#### **43-19.1-23. Reissuance of certificates.**

A new certificate of registration to replace any certificate lost, destroyed, or mutilated may be issued subject to the rules of the board. The board may establish a reasonable charge for such issuance.

#### **43-19.1-24. Code of ethics.**

The board shall cause to have prepared and shall adopt a code of ethics, a copy of which must be made available to every registrant and applicant for registration under this chapter, and which must be published in the roster provided under this chapter. Such publication constitutes due notice to all registrants. The board may revise and amend this code of ethics from time to time and shall notify each registrant of such revisions or amendments. The code of ethics applies to all certificate holders, including specialists in a particular branch of the engineering or surveying profession.

#### **43-19.1-24.1. Engineer not liable for contractor's fault unless responsibility assumed - Liability for own negligence.**

An engineer is not liable for the safety of persons or property on or about a construction project site, or for the construction techniques, procedures, sequences and schedules, or for the conduct, action, errors, or omissions of any construction contractor, subcontractor, or material supplier, their agents or employees, unless the engineer assumes responsibility therefor by contract or by the engineer's actual conduct. Nothing herein may be construed to relieve an engineer from liability for negligence, whether in the engineer's design work or otherwise.



#### **43-19.1-25. Disciplinary action - Revocations, suspensions, or reprimand.**

The board may suspend, refuse to renew, or revoke the certificate of registration of and may reprimand any registrant. These powers apply to any registrant who is found guilty of any of the following:

1. The practice of any fraud or deceit in obtaining a certificate of registration.
2. Any gross negligence, incompetence, or misconduct in the practice of engineering or land surveying.
3. Any offense determined by the board to have a direct bearing upon an individual's ability to serve the public as a professional engineer and land surveyor; or when the board determines, following conviction of any offense, that an individual is not sufficiently rehabilitated under section 12.1-33-02.1.
4. The violation of the code of ethics adopted by the board.

#### **43-19.1-26. Disciplinary action - Procedure.**

Any person may file charges of fraud, deceit, gross negligence, incompetence, misconduct, or violation of the code of ethics against any individual registrant. Such charges must be in writing and must be filed with the secretary of the board. All charges, unless dismissed by the board as unfounded or trivial, must be heard by the board within six months following the filing of charges unless the accused registrant waives this requirement. The matters considered at the hearing must include all charges made in the original filing, together with any related or additional matters or charges that arise in connection with the investigation of the original charges, and which are set forth in a specification of issues for the hearing. The time and place for the hearing must be fixed by the board and a copy of the charges, together with a notice of the time and place of hearing, and a specification of the issues to be considered at the hearing must be served upon the accused registrant either personally or sent by registered mail to the last-known address of the registrant at least thirty days before the date fixed for hearing. At any hearing the accused registrant has the right to appear in person or by counsel, or both; to cross-examine witnesses appearing against the accused; and to produce evidence and witnesses in defense of the accused. If the accused fails or refuses to appear, the board may proceed to hear and determine the validity of the issues set forth in the specification of issues. Following the hearing, the board members who did not serve on the investigative panel shall deliberate in executive session and if a majority of the board members who did not serve on the investigative panel vote in favor of sustaining all or part of the issues set forth in the specification of issues, the board shall make findings of fact and conclusions of law and shall issue the board's order and serve the findings, conclusions, and order upon the accused. In the order the board may reprimand, suspend, refuse to renew, or revoke the accused registrant's certificate of registration. Any registrant who feels aggrieved by any action of the board in denying, suspending, refusing to renew, or revoking that registrant's certificate of registration may appeal the board's action to the district court under the procedures provided by chapter 28-32.

#### **43-19.1-27. Right to practice.**

1. A person may not practice or offer to practice professional engineering or land surveying unless the person is an individual registered to practice under or exempt from the provisions of this chapter. The practice of engineering by a professional engineer which includes service or creative work that is included in both the definition of the practice of engineering and the definition of land surveying does not require registration as a professional land surveyor. The practice of land surveying by a professional land surveyor which includes a service or creative work that is included in both the definition of the practice of engineering and the definition of land surveying does not require registration as a professional engineer.
2. The following are not considered offering to practice engineering or surveying in the solicitation of work if the engineer or surveyor is licensed in another jurisdiction:
  - a. Advertising in a publication or electronic media if there is no holding out of professional services in jurisdictions in which not licensed.

- b. Responding to a letter of inquiry regarding a request for proposals if there is written disclosure the engineer, surveyor, or firm is not licensed in this state and the response is limited to inquiries regarding scope of project and to demonstrate interest.
  - c. Responding to a letter of inquiry from a prospective client if there is written disclosure that the engineer, surveyor, or firm is not licensed in this state and the response is limited to inquiries regarding scope of project and to demonstrate interest.
  - d. Using the title or designation "professional engineer", "licensed engineer", "P.E.", "professional surveyor", "licensed surveyor", "P.L.S.", or similar title or designation in correspondence or on business cards from an office in the jurisdiction in which licensure is held.
3. Notwithstanding subsection 2, a proposal may not be submitted, a contract may not be signed, or work may not be commenced until an engineer, surveyor, or firm becomes licensed as provided under this chapter.
4. A registered professional engineer or registered land surveyor may practice or offer to practice professional engineering or land surveying as an organization or as an individual operating under a trade name if the organization is registered under or exempt from the provisions of this chapter.
5. In addition to and without impairing any rights or exemptions granted others in this chapter, the practice of or offer to practice professional engineering or land surveying by an organization or by an individual operating under a trade name is permitted in this state if:
  - a. All officers, employees, and agents of such an organization or the individual operating under a trade name who will perform the practice of engineering or of land surveying within this state are registered under this chapter;
  - b. Each person in responsible charge of the activities of any organization or individual operating under a trade name which activities constitute the practice of professional engineering and land surveying, is a professional engineer or land surveyor registered in this state or an individual authorized to practice professional engineering or land surveying as provided in this chapter;
  - c. Such organization or individual operating under a trade name has been issued a certificate of commercial practice by the board as provided by subsection 6;
  - d. Each organization or individual operating under a trade name is jointly and severally responsible with and for the conduct or acts of its agents, employees, officers, or managers in respect to any professional engineering or land surveying services performed or to be executed in this state. An individual practicing professional engineering or land surveying may not be relieved of the responsibility for the individual's conduct or acts performed by reason of the individual's employment by or relationship with such organization or individual operating under a trade name; and
  - e. All final drawings, specifications, plans, reports, or other engineering or land surveying papers or documents involving the practice of professional engineering or land surveying, when presented to a client, contractor, subconsultant, or any public agency, must be dated and bear the seals and signatures of the professional engineers or land surveyors registered under this chapter by whom or under whose responsible charge they were prepared. A working drawing or unfinished document must contain a statement to the effect the drawing or document is preliminary and not for construction, recording purposes, or implementation. It is unlawful for a registrant to affix or permit the registrant's seal and signature or facsimiles thereof to be affixed to any engineering drawing, specification, map, plat, report, or other document after the expiration or revocation or during the suspension of a certificate or for the purpose of aiding and abetting any other person to evade or attempt to evade any provision of this chapter.

6. An organization or individual operating under a trade name desiring a certificate of commercial practice or the renewal thereof shall file a written application with the board setting forth the names and addresses of all partners, officers, directors, managers, or governors, if any, of such organization and the names and addresses of all employees who are duly registered to practice professional engineering or land surveying in this state, and who are or will be in responsible charge of any engineering or land surveying in this state by such organization or individual operating under a trade name, together with other information as the board may require. Upon the receipt of an application, and of a fee in an amount established by the board for the initial certificate or renewal thereof, but not to exceed the amount of two hundred dollars per year, the board shall issue to such organization or individual operating under a trade name a certificate of commercial practice or a renewal thereof, which certificate of commercial practice is not transferable. If the board finds an error in an application or that facts exist which would entitle the board to suspend or revoke a certificate if issued to the applicant, the board shall deny the application. If a change occurs in any of the information submitted on the application of any organization or individual operating under a trade name within the term of the certificate of commercial practice, the organization or individual operating under a trade name shall file with the board a written report with respect to the change within thirty days after the change occurs. The provisions with respect to issuance, expiration, renewal, and reissuance of the certificates of registration of individuals contained in this chapter also apply to certificates of commercial practice issued to an organization or individual operating under a trade name under this subsection. An organization or individual operating under a trade name is subject to disciplinary proceedings and penalties and certificates of commercial practice are subject to suspension or revocation for cause in the same manner and to the same extent as is provided with respect to an individual and the individual's certificates of registration in sections 43-19.1-26, 43-19.1-29, and 43-19.1-31. "Registrant" and "certificate of registration" in sections 43-19.1-26, 43-19.1-29, and 43-19.1-31, and the provisions of such sections, include and apply respectively to any organization or individual operating under a trade name that holds a certificate of commercial practice issued under this chapter, and to such certificate of commercial practice.

#### **43-19.1-28. Public works.**

Except as otherwise provided by law, the state and its political subdivisions may not engage in the construction of public works involving the practice of professional engineering when the contemplated expenditure for the project exceeds the sum of two hundred thousand dollars, unless the engineering drawings and specifications and estimates have been prepared by, and the construction administration and construction observation services are executed under the supervision of, a registered professional engineer. Any engineering contract executed in violation of this section is void.

#### **43-19.1-29. Exemption clause.**

This chapter does not prevent or affect:

1. The practice or offer to practice engineering by an individual not a resident or having no established place of business in this state, if that individual is legally qualified by registration to practice engineering in another state or country that extends similar privileges to individuals registered under this chapter. However, that individual shall make an application accompanied by the appropriate application fee to the board in writing before practicing or offering to practice engineering, and may be granted a one-time temporary permit for a definite period of time not to exceed one year to do a specific job. No right to practice engineering accrues to any applicant with respect to any other work not set forth in the temporary permit. A land surveyor may not receive a temporary permit under this subsection.
2. The work of an employee or a subordinate of an individual holding a certificate of registration under this chapter, or an employee of an individual practicing lawfully

under subsection 1; provided such work does not include final engineering or surveying designs or decisions and is done under the direct supervision of and verified by an individual holding a certificate of registration under this chapter, or an individual practicing lawfully under subsection 1.

3. The practice of any other legally recognized profession or trade, nor does the chapter permit registered professional engineers to perform duties requiring the services of a licensed architect, as provided by the laws of the state of North Dakota licensing and regulating architects and architecture.
4. The practice of engineering or land surveying by any individual regularly employed to perform engineering services solely for that individual's employer or for a subsidiary or affiliated corporation or limited liability company of that individual's employer, providing the services performed are in connection with the property, products, or services of that individual's employer, unless the board determines the property, products, or services are of a unique type requiring registration to protect the public.
5. The performance of work ordinarily performed by a person that operates or maintains machinery or equipment.

#### **43-19.1-30. Duties of recorder.**

It is unlawful for the recorder of any county or any county or any proper public authority to file or record any map, plat, survey, or other document within the definition of land surveying which does not have impressed thereon and affixed thereto the personal signature and seal of a registered professional land surveyor by whom the map, plat, survey, or other document was prepared.

#### **43-19.1-31. Violation and penalties.**

Any person that practices or offers to practice engineering or land surveying in this state without being registered in accordance with the provisions of this chapter; any person using or employing the words "engineer", "engineering", "professional engineer", "surveyor", "land surveyor", "professional land surveyor", or any modification or derivative of these terms in that person's name, form of business, or activity, except as authorized in this chapter; any person presenting or attempting to use the certificate of registration or the seal of another; any person giving any false or forged evidence of any kind to the board or to any member of the board in obtaining or attempting to obtain a certificate of registration; or any person falsely impersonating any other registrant of like or different name; any person attempting to use an expired or revoked or nonexistent certificate of registration practicing or offering to practice when not qualified; any person falsely claiming that person is registered under this chapter; or any person violating any of the provisions of this chapter is guilty of a class B misdemeanor. It is the duty of all duly constituted officers of the state, and of all political subdivisions of the state, to enforce the provisions of this chapter.

#### **43-19.1-32. Duty of attorney general - Legal counsel.**

The attorney general of the state or the attorney general's assistant shall act as legal adviser to the board and render such legal assistance as may be necessary in carrying out the provisions of this chapter. The board may employ other counsel and necessary assistance to aid in the enforcement or administration of this chapter, and the compensation and expenses therefor must be paid from funds of the board.

#### **43-19.1-33. Continuing professional education - Rules.**

The board shall adopt rules to establish continuing education requirements for professional engineers and land surveyors. Compliance with these rules must be documented at the times, and in the manner, as is required by the board. A professional engineer or land surveyor who is exempt under subsection 4 of section 43-19.1-29 but who has voluntarily registered under this chapter is exempt from the continuing professional education requirements under this section.