

THE PATH TO COMPLIANCE

DIRECT CONTROL & PERSONAL SUPERVISION

Questions continue to be generated regarding direct control and personal supervisions because signing and sealing is not as black and white as it used to be. Electronic signing and sealing of documents, increased mobility of licensees from state to state, plans being created in one state and being signed and sealed by a licensee in another, licensees moving from firm to firm with projects in various stages of completion, and the creation of prototypical plans for national chains are all issues that over the last few years have required Board Rule changes to keep pace with the practice. Then there are the questions about the biggest sealing issue of all: direct control and personal supervision of the work.

One of the most consistent principles through the more than 75 years of this board's existence is that the signing and sealing of documents, whenever presented to a client or any public agency, *represents that the engineering or land surveying work thereon was done by the licensee or under the direct control and personal supervision of the licensee*. This ensures that the public can rely upon the documents as being truly the product of professional analysis and judgment of a licensed engineer or land surveyor.

Because of the advancements in technology and the nature of the changing practice of these professions, the definition of direct control and personal supervision has evolved to reflect the state of the practice. Since licensees are charged with having knowledge of the Board Rules, a timely review the current requirements for those terms, which can be found in the Board Rules in Section 245: 15-17-2 (c) for engineers and 245: 15-17-2 (d) for land surveyors, is recommended. Specifically when it comes to enforcement, the sections of the rules that are most often violated are subparagraphs (1) and (5) under the aforementioned rules for engineers which read as follows:



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1. The licensee supervises the preparation of the plans, specifications, drawings, reports, or other documents and has input into their preparation prior to their completion and reviews the final plans, specifications, drawings, reports, or other documents prior to signing and sealing the work; and

5. The intent of the law shall not be met if an unlicensed person independently performs engineering work, to then be reviewed, signed and sealed by a professional engineer. An unlicensed person may only be used if the professional engineer is personally directing the unlicensed person and the work is performed concurrent with the supervision.

Many non-licensed individuals believe that they are capable of designing or performing engineering and surveying services simply by applying design software purchased online. In fact, many times they are encouraged to do so by clients who want to avoid the cost of hiring a licensed engineer or land surveyor except to review, sign and seal engineering and land surveying documents when required by a governmental jurisdiction. Those same individuals also know that they are probably going to be able to find a licensee who is willing to take the risk of signing those documents. But Board Rules make it perfectly clear that being willing to assume responsibility for a project is not the same as being in direct control and personal supervision of the project. The public has the right to expect that seal on the plans truly means that a Professional Engineer or Land Surveyor performed or was in direct control or personal supervision of the project. These Rules were created by the Board to protect the health, safety, property and welfare of the public and will continue to be strictly enforced.