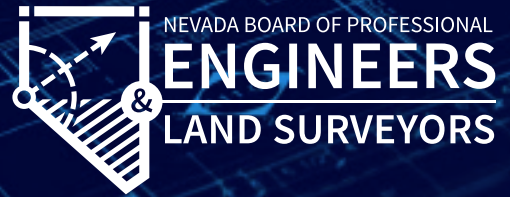


THE NEVADA CONNECTION

September 2023



CHAIR'S MESSAGE



By Angelo Spata, PE

Mr Spata was recently elected by the Board to serve as chair effective July 1, 2023. He was initially appointed to the Board by Governor Brian Sandoval July 1, 2018. Governor Sisolak reappointed Angelo, July 1, 2021, to serve his second three-year term.

Congratulations and thanks to past Chair Michael Kidd, PLS for successfully leading the Board through a very active period coming out of the pandemic. We made two notable changes to chapter 625 of the Nevada Revised Statutes under Michael's chairmanship—decoupling of PLS exams from experience requirements and removal of PE exemption for certain gas line engineering done by utility companies. We also facilitated the drafting of a Best Practices Guide for Quality Plan Submittals and made it available on our website.

In February of this year, the Board also responded quickly to incoming Governor Joe Lombardo's executive orders 2023-003 and 2023-004 which temporarily suspended all new regulations and required that we recommend the removal of a minimum of 10 existing regulations related to the issuance of licenses. The executive orders required the Board to:

- **conduct and publish a business impact survey on the regulations proposed to be repealed or amended.**
- **hold a public workshop to solicit input.**
- **conduct a public hearing to receive additional comments.**
- **draft small business impact statements.**
- **submit two reports to the governor, one report in response to each of the executive orders.**

This was a significant undertaking with a condensed timeline. Due to the Board's continuous review of regulations over the past 5 years, we were familiar with the required processes and were able to quickly identify further regulations that could be clarified/simplified or eliminated. The Governor recently lifted the moratorium on new regulations and the Board will now work through the public process to move forward with a significant number of regulation updates including many of the regulation changes proposed in the reports submitted to the Governor in response to the two executive orders. Stay tuned for opportunities to comment on the proposed regulatory updates.

I'm honored to be elected Board Chair, and I'd like to welcome our new Vice-chair, Brent Wright. I'd also like to welcome new Board member Jay Dixon. With the assistance of Brent and the other Board members and staff, I look forward to carrying on the excellent leadership of past chairs and continuing the efforts to serve our current and future licensed engineers and land surveyors.

If you have questions for me or if you have suggestions, please contact me through the Board email board@boe.state.nv.us.

NEW CHAIR, VICE-CHAIR, AND BOARD MEMBER APPOINTMENTS



Angelo Spata, PE

Angelo Spata was elected by the Board to serve as chair effective July 1, 2023. He takes over the position previously held by Michael Kidd, PLS.

Angelo is a licensed professional engineer in Nevada and four other western states. He's the Engineering Director for Kiewit Engineering Group, Inc working from their Las Vegas, Nevada, office. He was the design manager for Project Neon Design-Build in Las Vegas and has focused his career on overseeing engineering and design projects throughout Nevada and the Western States.

Angelo has lived in Nevada since 1976, graduating from Chaparral High School, attending the University of Nevada, Las Vegas, and obtaining his PE in 2002. He is an active member of the Nevada chapters of the American Public Works Association and American Society of Civil Engineers. He has overseen a variety of community and educational activities, such as the Clark County School District's education program, All People Promoting Literacy Efforts (APPLE), a computer funding and reading competition for elementary school students, and the Summer Business Institute Program for Clark County, which funds intern opportunities for local high school students interested in the field of engineering. Angelo is a supporter and contributor to the Nevada Science Technology Engineering Math (STEM) initiative that includes scholarships, fundraisers, and outreach promoting students in pursuing technical professions, as well as the Fuel Revenue Indexing (FRI) campaign to modernize, grow, and diversify the needs of our transportation infrastructure.



Brent Wright, PE/SE

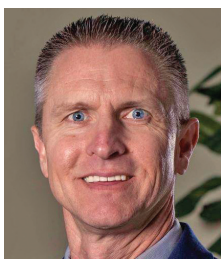
Governor Lombardo reappointed Brent Wright, PE/SE to his third term on the board effective July 1, 2023. Brent was also elected by the Board to serve as vice-chair effective July 1, 2023. He takes over the position previously held by Tom Matter.

Brent is a Nevada licensed structural engineer and is also licensed in 38 other states. He is the founder and CEO of Wright Engineers with offices in Las Vegas, Orange County, Phoenix, Dallas and Salt Lake City. He was lead structural engineer for the Stratosphere Tower in Las Vegas and has overseen structural engineering for thousands of projects nationwide.

Brent earned BS and MS degrees in civil engineering from Brigham Young University, and he formerly held a Nevada unlimited general contractor's license.

Brent serves as chairman of the Board of Appeals for the City of Las Vegas Department of Building and Safety and on other volunteer boards. He was a founder and the first president of the Structural Engineers Association of Southern Nevada.

Brent is the cartoonist and creative mind behind the Right Brain Blog (rightbrain.wrightengineers.com), cartoons and humor highlighting the quirks and craziness of engineers, architects, builders and the construction industry. He and his wife Peggy have five children and ten grandchildren. For fun, Brent enjoys woodworking, gardening, motorcycle riding, archery, and other outdoor adventures, including summiting some of the tallest peaks in the US, Africa and South America.



Jay Dixon, PE

Governor Lombardo also appointed Jay Dixon, PE to the Board effective September 1, 2023. This is Jay's first term on the board.

Jay Dixon takes over the seat previously held by Lynnette Russell, PE, whose term on the board expired August 31, 2023.

Jay has a Master's Degree in Civil Engineering from the University of Nevada Las Vegas. He is a licensed Professional Civil Engineer in Utah and Nevada and a Licensed Water Rights Surveyor in Nevada. During and shortly after graduate school at UNLV, Jay spent a few years doing hydrologic research at the Nevada Test Site and the Yucca Mountain Project in Nye County.

From 2010 – 2022, Jay was the Chief Hydrologist for Kinross Gold in Nevada, managing large-scale dewatering and hydrology projects at the Round Mountain and Bald Mountain Mines. Now a full-time independent consultant, Mr. Dixon has spent over 25 years working on water rights and groundwater development projects all over Nevada and recently started the Water Strategy Group, which focuses on water resources policy advocacy in Nevada.

WRITTEN CONTRACTS REMINDER

We have covered the contract topic in previous newsletters, but we thought it would be worthwhile to touch on it again. Many—if not most—of the complaints we receive are related to written contracts. Sometimes it's the absence of a contract and other times it's a poorly written or unclear contract. Let's start with a quick recap of the regulation that requires a written contract.

NAC 625.545 Written contract required for each client

has been in effect since 2010, and it was amended in 2019. As stated in the regulation, before performing any work in Nevada—regardless of project size—professionals are required to have a written contract with their client. The contract must include:

- **provisions specifying the scope of work to be performed;**
- **the cost for the completion of the work; and**
- **an anticipated completion date of the work.**



The 2019 amendment added the requirement to disclose whether the licensee currently (at the time of contracting) maintains a policy of professional liability insurance. NOTE: the regulation does not require that the licensee purchases a policy but informing a client (in writing) whether a policy is currently maintained is required.

Keep it Simple

When writing contracts, it's important to use concise, clear language. Engineers are notorious for their pension to use technical jargon. It's important to include all the necessary technical details in a contract, but it's equally important to explain them in simple language. This is especially true since the contract can often make or break a project.

A good rule of thumb for creating effective communications is to put yourself in the shoes of the intended audience. Consider who your audience is and how they will receive your message. The language used in e-mail, scope of work, contract, a presentation slide, or on the phone, should always be tailored to the recipient.

So what do you need to change? Professionals should be careful about their use of jargon. Most professionals use jargon, which may be perfectly acceptable when communicating with industry peers. But to those on the outside, it can sound like a foreign language.

Things to keep in mind...

- **analyze your audience – what is their level of expertise?**
- **think about what are you trying to convey**
- **confirm that your message was received and understood**
- **resist the temptation to jargon dump – translate your message into terms your audience will understand**

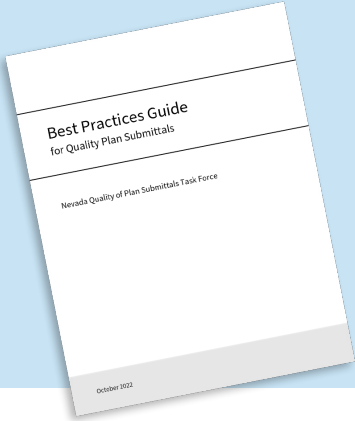
Be deliberate in your communications—think about what you want to say first. Well-intentioned professionals sometimes slip and use jargon mistakenly, as mentioned above. This curse of knowledge is one of the toughest communication challenges.

We highlight this issue because over one third of the disputes that come before the board are rooted in poor communication. Taking a little extra time and care at the outset of your interactions and considering who your audience is, will pave a smoother path and foster a better relationship in the long run.

QUALITY OF PLAN SUBMITTALS GUIDE AVAILABLE ONLINE

In April the **Best Practices Guide for Quality of Plan Submittals** was published by the Quality of Plan Submittal Task Force and made available to all building officials in the Nevada. Shortly after, the Board made the guide available to professionals and the public on its website.

[Click here for the Guide](#)



NEW FIRM REGISTRATION

“Do I need to notify the Board before my firm can offer engineering or land surveying services in Nevada?” The answer is YES.

Nevada Requirements:

1. Every business that plans to offer engineering or land surveying services in Nevada must register with the Board.
2. Each firm must employ at least one professional engineer or professional land surveyor licensed in the discipline(s) offered by the firm.
3. “Natural Persons” are not required to register with the Board—i.e., someone doing business as John Doe, PE/PLS.

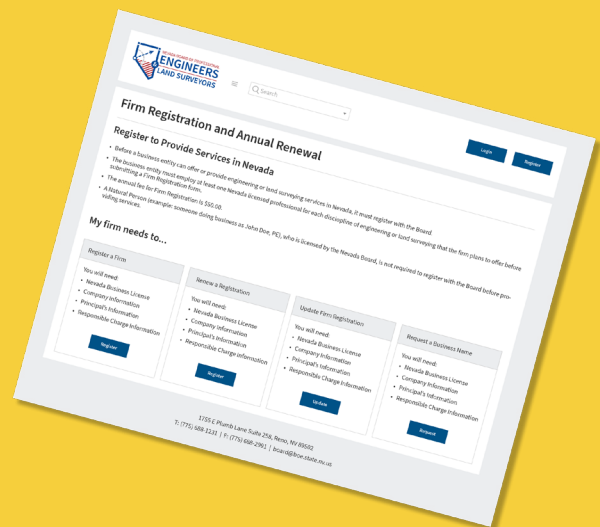
Visit our [Firms page](#) for more information.

Stay Tuned – New online system coming soon!

Firm registrations and renewals will get even easier later this year when we launch our new online system.

Accessing firm information and many other administrative tasks will be self-provisioning.

Watch for updates on our website and email soon.



NEVADA BOARD COMPLIANCE ACTIONS

Mark Johnson, PE 019830

Case Number: 20220004

Violation of NRS 625.410(2)

In July 2018, a client contracted with Mr Johnson's employer to provide engineering services for a single-family home and work barn located in Gardnerville, NV. These services included the site layout, design of the engineered septic system, mapping of the existing site, submittal to Douglas County, and follow-up. There was an estimated cost for these services, but the actual charges would be based on "time and materials."

Mr Johnson, as the professional engineer in charge on behalf his employer, requested the client commission and provide a Geotechnical Report for the property. SC received this report in late August 2018. This geotechnical report noted that "local groundwater levels are expected to fluctuate during flood irrigation, changes in precipitation, seasonal variations."

The septic tank was installed in July 2019. Soon after the installation, the farmland in the immediate area of the client's home was predictably flood irrigated. Within a week, water was found to have entered into the septic tank as a result of pipes in the system being compromised due to the tank "floating" i.e. vertical displacement, due to the rise in surrounding ground water.

Following discovery of this failure, Mr Johnson recommended a system design change, requiring installation of the tank above-ground (change from gravity flow to pump system). The client agreed to this recommendation.

After installation of the revised septic tank layout, the client learned that the above- ground tanks could have been located anywhere. The client reported that, had she known this, she would have placed the tanks next to the large leach field mound, instead of directly outside her bedroom window, where the revised installation was sited by Mr Johnson. The client questioned whether Mr Johnson's employer would bear responsibility for the extra expense incurred for the reinstallation of the above-ground septic tank system.

Mr Johnson's employer agreed to absorb the engineering fees for the above-ground system, but not the additional expense associated with the removal and reinstallation of the septic tank.

During the investigation, Mr Johnson admitted that he did not anticipate that the flood irrigation would have any impact on the groundwater level.

VIOLATIONS and DISCIPLINARY ACTION

Pursuant to NRS 625.410, in relevant part, the State Board may take disciplinary action against a licensee for "[a]ny gross negligence, incompetency or misconduct in the practice of professional engineering as a professional engineer or in the practice of land surveying as a professional land surveyor." NRS 625.410(2). Here, Mr Johnson had the information that local groundwater levels would fluctuate during flood irrigation, changes in precipitation, and seasonal variation. Mr Johnson, however, failed to factor the known ground water variability into the in- ground septic tank design.

Based on the foregoing, Mr Johnson stipulates that he was grossly negligent in the engineering of the client's septic system, and thus in violation of NRS 625.410(2).

NRS 625.410(5) provides authority for the State Board to administer discipline in Nevada for a violation of any NRS Chapter 625 statute and/or any regulation adopted by the State Board. Further, pursuant to NAC 625.640, a disciplinary matter may be resolved without a formal hearing by a Stipulated Agreement.

To that end, to resolve Complaint Number 20220004 now pending, Mr Johnson and the State Board resolve this matter on the following basis:

1. Mr Johnson's Nevada license shall be suspended for twenty-four (24) months following entry of this Agreement, but with the suspension stayed and probation imposed for the duration of that time period.
2. Mr Johnson shall submit, to the State Board, a complete list and description of his projects from July 01, 2018 to December 31, 2022 that involved septic design undertaken by Mr Johnson. The State Board will then randomly select three (3) of those projects to be subjected to an independent third-party peer review to evaluate Mr Johnson's septic competency as a civil engineer. The third-party engineer shall be selected by the State Board, and Mr Johnson shall be responsible to pay for the services thereof upon presentment of the service's invoice. The third-party engineer shall have no conflict of interest relating to Mr Johnson, his employer, or the client.
3. Mr Johnson shall pay an administrative fine of Five Thousand and No/100 Dollars (\$5,000.00) within ninety (90) days of acceptance and execution of this Agreement by the State Board. A payment plan may be granted by State Board staff if requested by Mr Johnson and deemed warranted by State Board staff.
4. Mr Johnson shall pay legal and investigative costs to the State Board a total of Two Thousand One Hundred Six and 50/100 Dollars (\$2,106.50) within ninety (90) days of acceptance and execution of this Agreement by the State Board.
5. Mr Johnson shall, within one (1) year of the effective date of this Stipulated Agreement, successfully complete a NAWT Designer Course, and submit proof of completion to the State Board within sixty (60) days of completion of the course.
6. Mr Johnson shall pay the client restitution in the amount of \$15,816.40 pursuant to NRS 625.460(1)(e), within ninety (90) days of acceptance and execution of this Agreement by the State Board.

Buckley Blew, PLS 024520

Case Number: 20230004

Violation of NRS 625.410 (2), 625.340, NRS 625.350(2)(a); and NRS 329.140(1)

Mr Blew self-reported a disciplinary action imposed against his California professional land surveyor license by the California Board of Professional Engineers, Land Surveyors, and Geologists (the "California Board") in his license renewal application.

CALIFORNIA BOARD DISCIPLINARY ACTION

The California Board action against Mr Blew was based on the following:

- A. California Business and Professions Code ("Code") § 8780(d) and § 8762(b)(4) and (c) for failing to file a record of survey within ninety (90) days of his survey of the following properties:
 - 555 and 575 Market Street, San Francisco
 - 1281 W. National Drive, Sacramento
 - 1520 and 1620 W. National Drive, Sacramento
 - 1534 N. Market Blvd. and 4201 Sierra Point Drive, Sacramento
 - 1700 W. National Drive, Sacramento
 - 3200-3298 Orange Grove Avenue, Sacramento
 - 1401 Civic Court, Concord
- B. Under Code § 8780(b) for negligence in the practice of land surveying, in that Mr Blew did not meet the standard of care for a licensed land surveying when he failed to file a record of survey for the aforementioned properties. In addition, for the properties located at 1520 and 1620 W. National Drive, Sacramento, at 1534 N. Market Blvd. and 4201 Sierra Point Drive, Sacramento, and at 1700 W. National Drive, Sacramento, Mr Blew was disciplined under Code § 8780(b) for negligence in the practice of land surveying, in that Mr Blew did not meet the standard of care for a licensed land surveying when he failed to set monuments.

- C. Under Code § 8780(d) and § 8765(d) for failing to file a corner record for 8845 Washington Blvd., Roseville. In addition, Mr Blew was disciplined under Code § 8780(b) in that he was negligent in his practice of land surveying regarding 8845 Washington Blvd., Roseville.
- D. Under Code § 8780(b) in that he was negligent and/or incompetent in the practice of land surveying in that the establishment of boundaries shown on Mr Blew’s ALTA/NSPS maps indicated a practice of using a minimum of unreferenced control points and using “record” information from a single direction to establish boundary lines. This practice is reasonably foreseeable to lead to gaps and overlaps in boundaries.

Based on the above Mr Blew stipulated with the California Board to the following violations: (1) failure to file a timely record of survey; (2) negligence in the practice of land surveying; (3) failure to file a corner report; and (4) incompetence in the practice of land surveying. Pursuant to the California Board Stipulation and Order, Mr Blew’s license was revoked, but the revocation was stayed pending the successful completion of three (3) years probation, reimbursement of investigative costs in the amount of Twelve Thousand Six Hundred Thirteen and 75/100 Dollars (\$12,613.75), completion and passage of the California Laws and Board Rules examination, passage of a Board approved ethics course within one (1) year, and completion and passage of two (2) college-level Board approved land surveying courses.

NEVADA BOARD DISCIPLINARY ACTION

NRS 625.410 states that the Nevada State Board may take disciplinary action against a licensee for discipline by another state or territory if at least one of the grounds for discipline is the same or substantially equivalent to any ground under Nevada law.

The State Board does not have statutory authority to take disciplinary action against licensees for mere negligence. Thus, Mr Blew’s cause for discipline due to his negligence does not constitute a violation of NRS 625.410(6).

Mr Blew’s cause for discipline for failure to file a timely record of survey, however, is substantially equivalent to NRS 625.340, in which professional land surveyors shall “within 90 day after the establishment of points or lines, file . . . a record of survey relating to land boundaries and property lines.” In addition, NRS 625.350 states that a record of survey must show, among other things, “[a]ll monuments found, set, reset, or replaced, describing their kind, size and location and giving other data relating thereto.” NRS 625.350(2)(a).

Mr Blew was also disciplined for failing to file a corner record. This cause for discipline is substantially equivalent NRS 329.140, in which a “a surveyor shall complete, sign and record or cause to be recorded . . . a written record of the establishment or restoration or a corner The survey information must be recorded within 90 days after the survey is completed.” NRS 329.140(1).

Finally, Mr Blew was disciplined for negligence and/or incompetence. NRS 625.410 states that the Board may take disciplinary action against a licensee for “[a]ny gross negligence, incompetency or misconduct in the practice of professional engineering as a professional engineer or in the practice of land surveying as a professional land surveyor.” NRS 625.410(2).

Thus, since at least one of the grounds for discipline in California is substantially similar to a ground for discipline in Nevada, the State Board may take disciplinary action against Mr Blew.

NRS 625.410 states that the State Board may take disciplinary action against a licensee for discipline by another state or territory if at least one of the grounds for discipline is the same or substantially equivalent to any ground under Nevada law.

Pursuant to NAC 625.640(3)(b)(2), a disciplinary matter against a licensee may be resolved without a formal hearing by Stipulated Agreement. As such, Mr Blew and the State Board hereby stipulate to the following terms for the above-referenced violation(s):

1. Mr Blew’s license shall be revoked following entry of this Agreement, but with revocation stayed and probation imposed for a term of three (3) years.
2. The licensee shall submit detailed bi-monthly probation reports to the Executive Director of the State Board, which shall report any work completed in Nevada during the previous two (2) month period. A report shall be filed even if no work was performed in Nevada during the previous two (2) month period. The first report shall be due within two (2) months of the effective date of this Stipulated Agreement. Each report shall include a copy of the contract executed for any work in Nevada, including the scope of work detail.
3. Mr Blew shall provide the State Board with proof of fulfilling the California Stipulated Agreement obligations.