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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11] (*Heading of Division 3 added by Stats. 1939, Ch. 30.*)

CHAPTER 15. Land Surveyors [8700 - 8805] (*Chapter 15 added by Stats. 1939, Ch. 41.*)

ARTICLE 6. Disciplinary Proceedings [8780 - 8785] (*Article 6 added by Stats. 1939, Ch. 41.*)

8780. (a) The board may, upon its own initiative or upon the receipt of a complaint, investigate the actions of any land surveyor licensed under this chapter or any civil engineer licensed under the provisions of Chapter 7 (commencing with Section 6700) who is legally authorized to practice land surveying and make findings thereon.

(b) By a majority vote, the board may publicly reprove, suspend for a period not to exceed two years, or revoke the license or certificate of any land surveyor licensed under this chapter or civil engineer licensed under the provisions of Chapter 7 (commencing with Section 6700) who is legally authorized to practice land surveying on any of the following grounds:

- (1) Any fraud, deceit, or misrepresentation in their practice of land surveying.
- (2) Any negligence in their practice of land surveying.
- (3) Any incompetence in their practice of land surveying.
- (4) Any fraud or deceit in obtaining their license.
- (5) Any violation of any provision of this chapter or of any other law relating to or involving the practice of land surveying.
- (6) Any conviction of a crime substantially related to the qualifications, functions, and duties of a land surveyor. The record of the conviction shall be conclusive evidence thereof.
- (7) Aiding or abetting any person in the violation of any provision of this chapter or any regulation adopted by the board pursuant to this chapter.
- (8) A breach or violation of a contract to provide land surveying services.
- (9) A violation in the course of the practice of land surveying of a rule or regulation of unprofessional conduct adopted by the board.

(Amended by Stats. 2021, Ch. 106, Sec. 3. (SB 414) Effective January 1, 2022.)

8780.1. The board may, upon its own initiative or upon the receipt of a complaint, investigate the actions of any land surveyor-in-training and make findings thereon.

By a majority vote, the board may revoke the certificate of any land surveyor-in-training:

- (a) Who has been convicted of a crime as defined in subdivision (a) of Section 480.
- (b) Who has committed any act that would be grounds for denial of a license pursuant to Section 480 or 496.
- (c) Who has committed any act of fraud, deceit, or misrepresentation in obtaining his or her land surveyor-in-training certificate or license as a professional land surveyor.
- (d) Who aids or abets any person in the violation of any provision of this chapter or any regulation adopted by the board pursuant to this chapter.

(e) Who violates Section 119 with respect to a land surveyor-in-training certificate.

(f) Who commits any act described in Section 8792.

(g) Who violates any provision of this chapter.

(Amended by Stats. 2011, Ch. 432, Sec. 32. (SB 944) Effective January 1, 2012.)

8780.2. The failure of, or refusal by, a licensee or a certificate holder to respond to a written request from a representative of the board in the investigation of a complaint against that licensee or certificate holder constitutes a cause for disciplinary action under Section 8780 or 8780.1.

(Amended by Stats. 2019, Ch. 630, Sec. 14. (AB 1522) Effective January 1, 2020.)

8781. The proceedings under this article shall be conducted in accordance with Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

(Amended by Stats. 2000, Ch. 1006, Sec. 33. Effective January 1, 2001.)

8783. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a land surveyor is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

(Amended by Stats. 1978, Ch. 1161.)

8784. The board may reissue a license to any person, whose license has been revoked, if a majority of the members of the board vote in favor of such reinstatement, for reasons the board may deem sufficient.

(Amended by Stats. 1949, Ch. 1028.)

8785. (a) A petitioner may petition the board for reinstatement or modification of penalty, including reduction, modification, or termination of probation, after the following minimum periods have elapsed from the effective date of the decision ordering the disciplinary action, or if the order of the board or any portion of it is stayed by a court of law, from the date the disciplinary action is actually implemented in its entirety:

(1) Except as otherwise provided in this section, at least three years for reinstatement of a license or certificate that was revoked or surrendered. However, the board may, in its sole discretion, specify in its order of revocation or surrender a lesser period of time that shall be at minimum one year.

(2) At least two years for early termination of a probation period of three years or more.

(3) At least one year for early termination of a probation period of less than three years.

(4) At least one year for reduction or modification of a condition of probation.

(b) The board shall notify the Attorney General of the filing of the petition. The petitioner and the Attorney General shall be given timely notice by letter of the time and place of the hearing on the petition, and the petitioner and the Attorney General shall be given the opportunity to present both oral and documentary evidence and argument to the board. The petitioner shall at all times have the burden of proof to establish by clear and convincing evidence that he or she is entitled to the relief sought in the petition.

(c) The board itself or an administrative law judge, if one is designated by the board, shall hear the petition and shall prepare a written decision setting forth the reasons supporting the decision.

(d) The board may grant or deny the petition or may impose any terms and conditions that it reasonably deems appropriate as a condition of reinstatement or reduction or modification of the penalty.

(e) No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. No petition shall be considered while there is an accusation or petition to revoke probation pending against the petitioner.

(f) The board may, in its discretion, deny without hearing or argument any petition that is filed pursuant to this section within a period of two years from the effective date of a prior decision following a hearing under this section.

(g) Judicial review of the board's decision following a hearing under this section may be sought by way of a petition for writ of administrative mandamus pursuant to Section 1094.5 of the Code of Civil Procedure. The party seeking to overturn the board's decision shall have the burden of proof in any mandamus proceeding. In the mandamus proceeding, if it is alleged that there has been an abuse of discretion because the board's findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in light of the whole record.

(h) For the purposes of this section, "petitioner" means a professional land surveyor or licensed civil engineer or a land surveyor-in-training whose license or certificate has been revoked, suspended, or surrendered or placed on probation.

(Added by Stats. 2004, Ch. 691, Sec. 26. Effective January 1, 2005.)