

DEPARTMENT OF ADMINISTRATIVE SERVICES
DIVISION OF PROFESSIONAL REGULATION
2700 Board of Professional Land Surveyors
Statutory Authority: 24 Delaware Code, Section 2706(g) (24 Del.C. §2706(g))
24 DE Admin. Code 2700

ORDER

After due notice in the *Register of Regulations* and two Delaware Newspapers, a public hearing was held on January 20, 2005 at a scheduled meeting of the Delaware Board of Professional Land Surveyors to receive comments regarding proposed Regulation 20.0. The proposed regulation identifies crimes substantially related to the practice of professional land surveying as mandated by SB 229 enacted by the 142nd General Assembly. The proposed regulation was published in the *Register of Regulations*, Vol. 8, Issue 6, December 1, 2004.

Background

Under Title 24, Chapter 27, one of the qualifications for licensure is that the applicant shall submit evidence that the applicant “shall not have a criminal conviction record, nor pending criminal charge relating to an offense the circumstances of which substantially relate to the practice of land surveying. Applicants who have criminal conviction records or pending criminal charges shall request appropriate authorities to provide information about the record or charge directly to the Board in sufficient specificity to enable the Board to make a determination whether the record or charge is substantially related to the practice of land surveying. 24 **Del.C.** §2708(5). 24 **Del.C.** §2712(a)(2), as amended by SB 229, provides that a practitioner licensed under this chapter shall be subject to disciplinary actions set forth in §2714 of this title after a hearing, the Board finds that the land surveyor “has been convicted of a crime that is substantially related to the practice of land surveying; a copy of the record of conviction certified by the clerk of the court entering the conviction shall be conclusive evidence therefor;”. “‘Substantially related’ means the nature of the criminal conduct, for which the person was convicted, has a direct bearing on the fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to the practice of land surveying.” 24 **Del.C.** §2702(9).

The Board’s authority to promulgate rules and regulations implementing or clarifying specific sections of Chapter 27 is set forth in 24 **Del.C.** §2702(a)(1). The specific mandate for this rule is set forth in 24 **Del.C.** §2706(b). The proposed regulation specifically identifies those crimes which are substantially related to the practice of land surveying.

Summary Of The Evidence And Information Submitted

No written comments were received. No public comment was received at the January 20, 2005 hearing.

Findings Of Fact With Respect To The Evidence And Information Submitted

The Board carefully reviewed and considered the crimes presented as a compilation of crimes extracted from the Delaware Code. The primary concern of the Board was the safety of the public since the licensed practitioners frequently work outdoors, in residential subdivisions, office parks, farms, and other types of properties, under conditions that sometimes can lead to potential confrontations over boundary disputes or other real estate controversies. In addition, Land Surveyors have regular contact with public officials regarding land use matters, where honesty and respect for the integrity of public institutions is of paramount concern. Land Surveyor clients may also include the elderly who are vulnerable to undue influence or other forms of abuse. Land Surveyors may also have access to confidential client information health and financial information.

The “primary objective of the Board of Professional Land Surveyors, to which all other objectives and purposes are secondary, is to protect the general public, specifically those persons who are the direct recipients of services regulated by this chapter, from unsafe practices and from occupational practices which tend to reduce competition or fix the price of services rendered.” 24 **Del.C.** §2701.

The Board finds that the crimes identified in the proposed rule are substantially related to the fitness or ability to perform 1 or more of the duties and responsibilities of land surveying services in that they involve: the use of physical violence or force, or the threat thereof, toward or upon the person of another; sexual abuse or inappropriate sexual conduct; violation of privacy; dishonesty, or false or fraudulent conduct; mistreatment or abuse of children, the

elderly or animals; and offenses involving the illegal possession or the misuse or abuse of narcotics, or other addictive substances and those non-addictive substances with a substantial capacity to impair reason or judgment.

In summary, the Board finds that adopting regulation 20.0 as proposed is in the best interest of the citizens of the State of Delaware and is necessary to protect the health and safety of the general public, particularly the recipients of land surveying services.

Decision And Effective Date

The Board hereby adopts the changes to Regulation 20.0 to be effective 10 days following publication of this order in the *Register of Regulations*.

Text And Citation

The text of the revised rule remains as published in *Register of Regulations*, Vol. 8, Issue 6, December 1, 2004.

SO ORDERED this 20th day of January, 2005.

BOARD OF PROFESSIONAL LAND SURVEYORS

Elton M. Murray, Chairman, Professional Member

Roy B. Kemp, Vice-Chairman, Professional Member

Russel Y. Dolbeare, Professional Member

Lena M. Corder, Public Member

Michael J. Early, Professional Member

Amos W. Aiken, Professional Member

Victor Kennedy, Public Member

- 20.0 Crimes substantially related to practice of land surveyors
- 20.1 Conviction of any of the following crimes, or of the attempt to commit or of a conspiracy to commit or conceal or of solicitation to commit the following crimes, is deemed to be a crime substantially related to the practice of land surveyor in the State of Delaware without regard to the place of conviction:
- 20.1.1 Menacing. 11 **Del.C.** §602
 - 20.1.2 Reckless endangering in the second degree. 11 **Del.C.** §603
 - 20.1.3 Reckless endangering in the first degree. 11 **Del.C.** §604
 - 20.1.4 Abuse of a pregnant female in the second degree. 11 **Del.C.** §605
 - 20.1.5 Abuse of a pregnant female in the first degree. 11 **Del.C.** §606
 - 20.1.6 Assault in the second degree. 11 **Del.C.** §612
 - 20.1.7 Assault in the first degree. 11 **Del.C.** §613
 - 20.1.8 Assault by abuse or neglect. 11 **Del.C.** §615
 - 20.1.9 Terroristic threatening. 11 **Del.C.** §621(a)(b)
 - 20.1.10 Unlawful administering drugs. 11 **Del.C.** §625
 - 20.1.11 Unlawful administering controlled substance or counterfeit substance or narcotic drugs. 11 **Del.C.** §626
 - 20.1.12 Prohibited acts as to substances releasing vapors or fumes. 11 **Del.C.** §627
 - 20.1.13 Vehicular assault in the second degree. 11 **Del.C.** §628
 - 20.1.14 Vehicular assault in the first degree. 11 **Del.C.** §629
 - 20.1.15 Vehicular homicide in the second degree. 11 **Del.C.** §630
 - 20.1.16 Vehicular homicide in the first degree. 11 **Del.C.** §630A
 - 20.1.17 Criminally negligent homicide. 11 **Del.C.** §631
 - 20.1.18 Manslaughter. 11 **Del.C.** §632
 - 20.1.19 Murder by abuse or neglect in the second degree. 11 **Del.C.** §633
 - 20.1.20 Murder by abuse or neglect in the first degree. 11 **Del.C.** §634
 - 20.1.21 Murder in the second degree. 11 **Del.C.** §635
 - 20.1.22 Murder in the first degree. 11 **Del.C.** §636

20.1.23	Unlawful sexual contact in the second degree. 11 Del.C. §768
20.1.24	Unlawful sexual contact in the first degree. 11 Del.C. §769
20.1.25	Rape in the fourth degree. 11 Del.C. §770
20.1.26	Rape in the third degree. 11 Del.C. §771
20.1.27	Rape in the second degree. 11 Del.C. §772
20.1.28	Rape in the first degree. 11 Del.C. §773
20.1.29	Sexual extortion. 11 Del.C. §776
20.1.30	Continuous sexual abuse of a child. 11 Del.C. §778
20.1.31	Female genital mutilation. 11 Del.C. §780
20.1.32	Unlawful imprisonment in the first degree. 11 Del.C. §782
20.1.33	Kidnapping in the second degree. 11 Del.C. §783
20.1.34	Kidnapping in the first degree. 11 Del.C. §783A
20.1.35	Arson in the first degree. 11 Del.C. §803
20.1.36	Burglary in the third degree. 11 Del.C. §824
20.1.37	Burglary in the second degree. 11 Del.C. §825
20.1.38	Burglary in the first degree. 11 Del.C. §826
20.1.39	Multiple Offenses. 11 Del.C. §827
20.1.40	Possession of burglar's tools or instruments facilitating theft. 11 Del.C. §828
20.1.41	Robbery in the second degree. 11 Del.C. §831
20.1.42	Robbery in the first degree. 11 Del.C. §832
20.1.43	Carjacking in the second degree. 11 Del.C. §835
20.1.44	Carjacking in the first degree. 11 Del.C. §836
20.1.45	Shoplifting. 11 Del.C. § 840
20.1.46	Theft. 11 Del.C. §841
20.1.47	Theft of Services. 11 Del.C. §845
20.1.48	Extortion. 11 Del.C. §846
20.1.49	Misapplication of property. 11 Del.C. §848
20.1.50	Theft of rented property. 11 Del.C. §849
20.1.51	Receiving stolen property. 11 Del.C. §851
20.1.52	Identity theft. 11 Del.C. §854
20.1.53	Forgery. 11 Del.C. §861
20.1.54	Falsifying business records. 11 Del.C. §871
20.1.55	Tampering with public records in the second degree. 11 Del.C. §873
20.1.56	Tampering with public records in the first degree. 11 Del.C. §876
20.1.57	Offering a false instrument for filing. 11 Del.C. §877
20.1.58	Issuing a false certificate. 11 Del.C. §878
20.1.59	Bribery. 11 Del.C. §881
20.1.60	Bribe receiving. 11 Del.C. §882
20.1.61	Issuing a bad check. 11 Del.C. §900
20.1.62	Criminal impersonation of a police officer. 11 Del.C. §907B
20.1.63	Unlawfully concealing a will. 11 Del.C. §908
20.1.64	Fraudulent conveyance of public lands. 11 Del.C. §911
20.1.65	Fraudulent receipt of public lands. 11 Del.C. §912
20.1.66	Insurance fraud. 11 Del.C. §913
20.1.67	Health care fraud. 11 Del.C. §913A
20.1.68	New home construction fraud. 11 Del.C. §917
20.1.69	Unauthorized access. 11 Del.C. §932
20.1.70	Theft of computer services. 11 Del.C. §933
20.1.71	Interruption of computer services. 11 Del.C. §934
20.1.72	Misuse of computer system information. 11 Del.C. §935
20.1.73	Destruction of computer equipment. 11 Del.C. §936
20.1.74	Dealing in children. 11 Del.C. §1100
20.1.75	Abandonment of a child. 11 Del.C. §1101
20.1.76	Endangering the welfare of a child. 11 Del.C. §1102
20.1.77	Sexual exploitation of a child. 11 Del.C. §1108
20.1.78	Unlawful dealing in child pornography. 11 Del.C. §1109
20.1.79	Possession of child pornography. 11 Del.C. §1111

	20.1.80	Sexual solicitation of a child. 11 Del.C. §1112A
	20.1.81	Bribery. 11 Del.C. §1201
	20.1.82	Receiving a bribe. 11 Del.C. §1203
	20.1.83	Giving unlawful gratuities. 11 Del.C. §1205
	20.1.84	Receiving unlawful gratuities. 11 Del.C. §1206
	20.1.85	Perjury in the third degree. 11 Del.C. §1221
	20.1.86	Perjury in the second degree. 11 Del.C. §1222
	20.1.87	Perjury in the first degree. 11 Del.C. §1223
	20.1.88	Making a false written statement. 11 Del.C. §1233
	20.1.89	Threats to public officials. 11 Del.C. §1240
	20.1.90	Assault in a detention facility. 11 Del.C. §1254
	20.1.91	Bribing a witness. 11 Del.C. §1261
	20.1.92	Bribe receiving by a witness. 11 Del.C. §1262
	20.1.93	Tampering with a witness. 11 Del.C. §1263
	20.1.94	Interfering with child witness. 11 Del.C. §1263A
	20.1.95	Bribing a juror. 11 Del.C. §1264
	20.1.96	Bribe receiving by a juror. 11 Del.C. §1265
	20.1.97	Tampering with physical evidence. 11 Del.C. §1269
	20.1.98	Disorderly conduct. 11 Del.C. §1301
	20.1.99	Felony hate crimes. 11 Del.C. §1304
	20.1.100	Harassment. 11 Del.C. §1311
	20.1.101	Aggravated harassment. 11 Del.C. §1312
	20.1.102	Felony stalking. 11 Del.C. §1312A
	20.1.103	Trading in human remains and associated funerary objects. 11 Del.C.
§1333		
	20.1.104	Adulteration. 11 Del.C. §1339
	20.1.105	Carrying a concealed deadly weapon. 11 Del.C. §1442
	20.1.106	Possessing a destructive weapon. 11 Del.C. §1444
	20.1.107	Felony possession of a deadly weapon during the commission of a felony. 11
Del.C. §1447		
	20.1.108	Possession of a firearm during commission of a felony. 11 Del.C.
§1447A		
	20.1.109	Possession and purchase of deadly weapons by persons prohibited. 11
Del.C. §1448		
	20.1.110	Theft of a firearm. 11 Del.C. §1451
	20.1.111	Engaging in a firearms transaction on behalf of another. 11 Del.C.
§1455		
	20.1.112	Removing a firearm from the possession of a law enforcement officer.
11 Del.C. §1458		
	20.1.113	Act of intimidation. 11 Del.C. §3532
	20.1.114	Aggravated act of intimidation. 11 Del. C. §3533
	20.1.115	Prohibited drug offenses A. 16 Del.C. §4751
	20.1.116	Prohibited drug offenses B. 16 Del.C. §4752
	20.1.117	Unlawful delivery of noncontrolled substances. 16 Del.C. §4752A
	20.1.118	Prohibition against transfer, sale and purchase. 7 Del.C. §5306
	20.1.119	Alteration, theft or destruction of will. 12 Del.C. §210
	20.1.120	Receiving or transferring stolen vehicle. 21 Del.C. §6704

20.2 Crimes substantially related to the practice of professional land surveyors shall be deemed to include any crimes under any federal law, state law, or valid town, city or county ordinance, that are substantially similar to the crimes identified in this rule.

***Please Note: As the rest of the sections were not amended they are not being published. A complete set of the rules and regulations for the Board of Professional Land Surveyors is available at: <http://www.professionallicensing.state.de.us/boards/landsurveyors/index.shtml>**

8 DE Reg. 1280 (3/1/05)