

Board Amends Rule Expanding Scope of Responsible Charge
By S. Wesley Tripp III, Board Counsel

After many years of discussion surrounding the meaning of responsible charge, the Board has amended Rule .0701, our Rules of Professional Conduct, effective May 1, 2024. The amendment makes changes concerning over whom licensees can exercise responsible charge. This article explains the prior version of the rule, what changed, and what that means for licensees moving forward.

Under the prior version of Rule .0701, a licensee could only exercise responsible charge over an employee of the licensee. The prior version of Rule .0701 prohibited any licensee from affixing their signature or seal “to any engineering or land surveying plan or document dealing with subject matter for which the licensee lacks competence by virtue of education or experience, nor to any such plan or document not prepared under the licensee’s direct supervisory control” or responsible charge. The old version of the rule went on to say that direct supervisory control “requires a licensee **or employee** to carry out all client contacts, provide internal and external financial control, oversee employee training, and exercise control and supervision over all job requirements to include research, planning, design, field supervision and work product review” and that direct supervisory control “may be accomplished face to face or by other means of communication.”

The updated version of Rule .0701 removes the word employee from the rule and further defines how a licensee exercises responsible charge over assignments. The new Rule .0701 still prohibits a licensee from affixing their seal “to any engineering or land surveying plan or document for which the licensee was not in responsible charge of the work through direct control and personal supervision.” The new rule then states that to exercise responsible charge, the licensee must possess full professional knowledge of and control over the work and shall do the following:

- Have and exercise the authority to review and to change, reject or approve both the work in progress and the final work product, through examination, evaluation, communication and direction throughout the development of the work;
- Be personally aware of the scope of the work, its needs, parameters, limitations and special requirements;
- Be capable of answering questions relevant to the surveying or engineering decisions made as part of the services provided, in sufficient detail to demonstrate knowledge of the proficiency in the work; and
- Accept full responsibility for the work.

The new rule fleshes out what it means to accept full responsibility for your work by providing that “[t]he burden for demonstrating responsible charge lies with the licensee, including

maintaining records, calculations, drawings, surveys, specifications, and other documents associated with the work.”

The most notable change to this part of Rule .0701 concerning responsible charge is the removal of the word “employee” from the rule. Under the new version of Rule .0701, a licensee may exercise responsible charge over a subcontractor or other non-employee of the licensee involved in the provision of professional services. It may appear that this rule change gives the licensee more flexibility in who the licensee uses to develop their work product; however, the licensee’s responsibilities have increased. A licensee can no longer merely satisfy responsible charge just by hiring employees and not providing adequate supervision. Additionally, a licensee must keep records showing how the licensee fulfilled their responsible charge duties.

Despite this revision to the responsible charge rule, the key components of responsible charge remain the same. Former Board Member Stacey A. Smith, PE provided the below list as a test of responsible charge in a prior Board Newsletter that remains relevant today:

1. Do you supervise the individual(s) performing the work?
2. Do you obtain or set the parameters or criteria?
3. Can you require changes to the work?
4. Are you involved from start to finish?
5. Are there protocols and procedures that assure your control?
6. Did you spend sufficient time during work performance to understand the details?
7. Are you familiar with the performance capabilities and methods of the individual(s)?
8. Did you train the individual(s)?
9. Are you in close proximity or do you have readily accessible contact with the individual(s)?
10. Are you competent by training and experience in the field of engineering or land surveying which is represented by the drawings or work in question?¹

The Board is your resource. If you have questions about this rule change, or other questions concerning the Board’s Rules or the standards of practice, please reach out to Board Counsel, Wes Tripp, at wtripp@ncbels.org or 919-791-2000, Extension 111.

¹ Stacey A Smith, PE, *Responsible Charge*, The North Carolina Bulletin: The Newsletter of the North Carolina Board of Examiners for Engineers and Surveyors, Fall 2016, <https://www.ncbels.org/wp-content/uploads/2019/03/fall2016.pdf>.