

# ETHICAL CONSIDERATIONS & REGULATIONS IN THE PRACTICE OF ENGINEERING IN PENNSYLVANIA

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# Guiding Principle of Engineers Registration Law

Public Policy Concern: To protect the public...

“In order to **safeguard life, health or property** and to **promote the general welfare**, it is unlawful for any person to practice or to offer to practice engineering in this Commonwealth, unless he is licensed and registered under the laws of the Commonwealth as a professional engineer.”

63 Pa. Stat. Ann § 150(a)



# WHAT IS THE PRACTICE OF ENGINEERING?

The “Practice of Engineering” is defined as:

“[T]he application of the mathematical and physical sciences for the design of public or private buildings, structures, machines, equipment, processes, works or engineering systems, and the consultation, investigation, evaluation, engineering surveys, construction management, planning and inspection . . . [.]”

63 Pa .Stat. Ann. § 149(a)(1)



# Firm or Corporate Practice

The Practice of Engineering is the function of an individual or individuals.

Unless the “directing heads and employees of such firm or corporation in **responsible charge** ... are licensed and registered”...

It is **unlawful** for any firm or corporation to:

- To practice or offer to practice engineering; or
- To assume use or advertise any title or description conveying the impression that such firm is engaged in the practice of engineering.



# Responsible Charge

“Responsible charge” [A] position that requires initiative, skill and independent judgment, and implies such a degree of **competence and accountability** gained by technical education and experience of a grade and character as is sufficient to qualify an individual to **personally and independently** engage in and be **entrusted** with the work involved in the practice of engineering or land surveying.

63 Pa .Stat. Ann. § 149(i)



# Responsible Charge (cont'd)

Responsible Charge statute prohibits:

- A licensed engineer from applying a seal to any engineering work unless that engineer was in “responsible charge” for that work.
- A firm or corporation from practicing engineering unless the “directing heads or employees” of the firm who are in “responsible charge” of the engineering work are licensed engineers.

63 Pa .Stat. Ann. § § 151(g)(9), 153



# What is Ethics?

Merriam-Webster's defines ethics as:

- *a*: a set of moral principles : a theory or system of moral values
- ***b*: the principles of conduct governing an individual or a group <professional *ethics*>**
- *c*: a guiding philosophy
- *d*: a consciousness of moral importance



# Moral Standards

- NSPE Code of Ethics
- “Code of Ethics”
  - 63 Pa. Stat. Ann. § 151(g)(1)-(10)
- Misconduct
  - 49 Pa. Code § 37.81



# Honesty, Integrity, Reliability and Professional Autonomy

As members of the Engineering profession, you are expected to exhibit the highest standards of honesty and integrity.

- NSPE Code of Ethics Preamble

The services provided by an engineer require honesty, impartiality, fairness, and equity.



# Honesty, Integrity, Reliability and Professional Autonomy

## Forms of Dishonesty:

- Lying
- Deliberate Deception
- Withholding or Omitting Information
- Failure to Seek Out the Truth



# Conflict of Interest

Act for each employer or client as faithful agents or trustees. (NSPE Canon 4)

- Professionals are paid for their expertise and unbiased professional judgment.
- A conflict of interest threatens to undermine the duty of loyalty to client.
- A conflict exists where an engineer is subject to influences, loyalties, or temptations, that tend to make his or her judgment less likely to benefit the client.



# “Code of Ethics”

**63 Pa. Stat. Ann. § 151(g)(1)-(10)**



## Violations of “Code of Ethics”

“It shall be considered unprofessional and inconsistent with honorable and dignified bearing for any professional engineer . . . to engage in the following activities:”

- To act for the client otherwise than as a faithful agent;
  - 63 Pa. Stat. Ann. § 151(g)(1)
- To attempt to injure falsely or maliciously the professional reputation, prospects, or business of anyone;
  - 63 Pa. Stat. Ann. § 151(g)(2)



## Violations of “Code of Ethics” (cont’d)

- To attempt to supplant another engineer after definite steps have been taken toward his employment;
  - 63 Pa. Stat. Ann. § 151(g)(3)
  
- To compete for business with another engineer using unethical practices;
  - 63 Pa. Stat. Ann. § 151(g)(4)



## Violations of “Code of Ethics” (cont’d)

- To review the work of another engineer for the same client without the knowledge of the other engineer, unless the other engineer's employment has been terminated;
  - 63 Pa. Stat. Ann. § 151(g)(5)
  
- To attempt to obtain or render technical service without fair compensation, except for the donation of services to charity;
  - 63 Pa. Stat. Ann. § 151(g)(6)



## Violations of “Code of Ethics” (cont’d)

- To advertise in “self-laudatory language,” or in a manner “derogatory to the dignity of the profession;”
  - 63 Pa. Stat. Ann. § 151(g)(7)
- To attempt to practice in a field of engineering in which the engineer is not proficient;
  - 63 Pa. Stat. Ann. § 151(g)(8)



## Violations of “Code of Ethics” (cont’d)

- To use or permit the use of the engineer’s professional seal on work over which the engineer was not in responsible charge;
  - 63 Pa. Stat. Ann. § 151(g)(9)
  
- To aid or abet any person in the practice of engineering not in accordance with the statute.
  - 63 Pa. Stat. Ann. § 151(g)(10)



# Penalties for Violations of Registration

Violating the Engineering Registration Law by practicing or offering to practice engineering without a valid license, or violating the law in any other manner...

- Summary offense: fine not exceeding \$1,000 and imprisonment not exceeding 3 months.
- Second offense: felony punishable by a fine of \$2,000 to \$5,000 and imprisonment between 1 to 2 years.
- Board can also issue a civil penalty up to \$1,000 to anyone who violates the Act or practices engineering without a license.

63 Pa. Stat. Ann. § 158(b)



# Penalties for Violations of Registration

Violations that may result in Board revoking or suspending engineer's license:

- The practice of any fraud, deceit, or misrepresentation in obtaining an engineering license;
- Gross negligence, incompetency, or misconduct in the practice of engineering;
- **Violation of the code of ethics** of the engineering profession.

63 Pa. Stat. Ann. § 151(g)



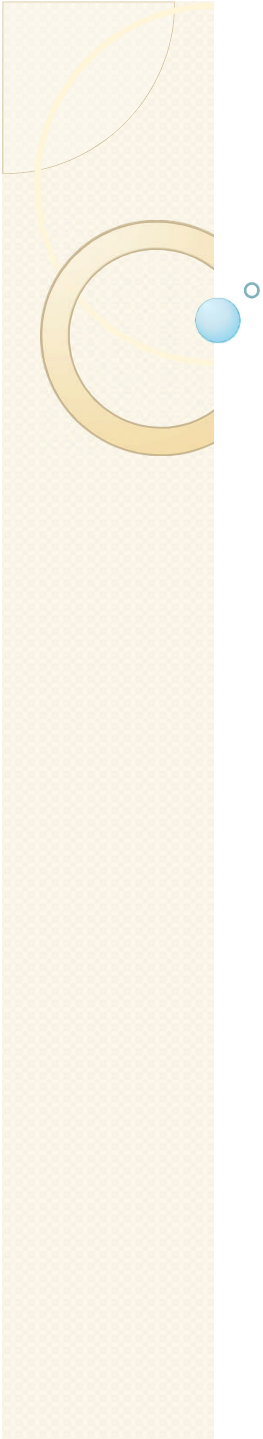
# Disciplinary Action

The **Licensing Board** may **discipline** an engineer as follows:

- Refuse a certificate or license to an applicant;
- Suspend a license;
- Revoke a certificate;
- Censure or issue a letter or reprimand;
- Fine the licensee.

# Misconduct

**49 Pa. Code § 37.81**





# Misconduct in Practice of Engineering

Misconduct in the practice of engineering includes the following:

- Being convicted of a criminal offense such as extortion, bribery or fraud to a charge relating to the practice of engineering;
  - 49 Pa. Code § 37.81
- Being unable to practice engineering with reasonable skill and safety by reason of drunkenness, use of controlled substances, chemicals or other types of inhibiting materials, or as a result of a mental or physical incapacity;
  - 49 Pa. Code § 37.81



# Misconduct in Practice of Engineering

- Failing to exercise supervision over a person who is not authorized to practice engineering;
  - 49 Pa. Code § 37.81
- Delegating responsible charge to an individual who the professional engineer knows or has reason to know is not qualified by training or experience to be entrusted with the work;
  - 49 Pa. Code § 37.81



# Misconduct in Practice of Engineering

- Making misleading, deceptive, untrue or fraudulent representations in the practice of engineering, land surveying or geology;
  - 49 Pa. Code § 37.81
- Practicing fraud or deceit in obtaining a license to practice engineering;
  - 49 Pa. Code § 37.81



# Misconduct in Practice of Engineering

- Submitting a false or deceptive biennial registration to the Board;
  - 49 Pa. Code § 37.81
- Reviewing on behalf of a public entity plans on which the individual performing the review, or an employee of the individual's firm, has participated in any manner, including an advisory capacity;
  - 49 Pa. Code § 37.81



# Misconduct in Practice of Engineering

- Violating any provision of the Registration Law or the Regulations;
  - 49 Pa. Code § 37.81
- Having a license to practice engineering suspended, revoked or having other disciplinary action taken by another jurisdiction.
  - 49 Pa. Code § 37.81



# Mandatory Reporting of Misconduct

- An engineer is required to report licensure information in other jurisdictions and any disciplinary action taken on the biennial renewal form or within 90 days of final disposition, whichever is earlier;
  - 63 Pa. Stat. Ann. § 157.2
- An individual, firm or corporation who has reason to believe that a professional engineer has engaged in gross negligence, incompetency or misconduct in the practice of engineering ***shall report the activity.***
  - 49 Pa. Code § 37.82



**THANK YOU**

**Questions?**

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