



POSITION PAPER

**CODE OF ETHICS:
ITS VALUE IN THE PRACTICE OF A LICENSED ENGINEER**

Prepared By: The Michigan Society of Professional Engineers
Submitted To: Michigan State Board of Professional Engineers

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Abstract

The following is an abstract summary of the following Michigan Society of Professional Engineers (MSPE) position paper: Code of Ethics, Its Value in the Practice of Licensed Engineers.

The State of Michigan professional engineers' licenses are administered and managed by the State's Board of Professional Engineers (MSBPE). MSBPE's authority is provided by the State of Michigan's PA 299, of 1980 amended and its section 20 administrative rules. This license is granted as an earned privilege in order to primarily protect the health, safety, and welfare of the people of the State. The licensed practice is supported by these statutes and rules, as well as by the education, experience, and accepted business practices of its practitioners. In addition to these foundational supports the practice primarily relies on the full commitment to a code of ethics. This commitment by licensed engineers to ethical standards of professional practice directly provides the general public with high levels of confidence, assurance, and integrity in the paramount protection of the public's health, safety, and welfare in engineering matters. A final significant component of this system is the MSBPE's authority and obligation to sanction unprofessional and unethical behaviors of the licensed profession. MSPE strongly supports its code of ethics as critical and paramount to the protection of the State of Michigan's health, safety, and welfare and supports necessary sanctions to support this protective responsibility.

Introduction

The citizens of our state rely on licensed engineers for protection of the public health, safety, and welfare in the performance of their practice. This reliance and its resultant confidence are based upon an integrated system of statutes, regulations, education, experiences, and accepted business practices. These are foundational supports of that protection. But it is further supported by the engineers' commitments to its code of ethics. Ethics are the primary basis of this protection; the others are supplemental reinforcement standards.

Deviations from these ethics and standards erode and corrode the public confidence in engineers and the engineering profession and thus in the protection standard. Ultimately such deviations may result in jeopardizing those very standards of public health, safety, and welfare.

This paper presents the background and components of the Engineers Code of Ethics and examples of deviations from the code which undermine the protection standard.

1. Purpose of this Paper

The Michigan Society of Professional Engineers (MSPE) is an organization of state licensed engineers whose main purpose is to support the ethical practice of engineering through the state licensing process, including the Michigan State Board of Professional Engineers (MSBPE). By preparing this paper, MSPE is presenting its commitment, support, and guidance to the MSBPE to the fundamental importance of the Engineer's Code of Ethics. Specifically, MSPE wishes to support the MSBPE administration and management of licensed engineer behaviors that deviate from the code. MSPE strongly supports the ethical practice of engineering, the credibility of the license and thus the protection of the public health, safety, and welfare.

2. Authorship

This paper was prepared by MSPE and its board of directors. MSPE was founded in 1946 and directly represents 720 members, and indirectly over 9,000 state licensed engineers. As noted in the section above, "Purpose", it supports the license, ethical engineering practice, and the protection of the public health, safety, and welfare.

3. Paper's Expected Audience

This paper was prepared by MSPE to be presented to the Michigan State Board of Professional Engineers (MSBPE). MSBPE is an administrative and license management Board whose members are appointed by the Governor and approved by the legislature. Its role and authority are based upon the State Public Act 299, and its Article 20, as amended. It is part of the State Executive Branch, under the Michigan Department Licensing and Regulatory Affairs (LARA). LARA administers licensed engineers under the MSBPE. MSBPE's role is to set standards for licensure, continuing education, issues sanctions for violations, and to hear public concerns.

There are currently 9,000 state licensed professional engineers. The MSBPE consists of 12 members. Six of which are professional engineers. There is also one member from each the Board of Surveyors and Architects and two from the public at large. Statutorily MSBPE is required to hold two public meetings annually.

This paper is respectfully submitted to the Michigan State Board of Professional Engineers for its consideration and for its continued strong support of the Code of Engineers Ethics.

4. Code of Ethics

“Engineering is the practice of applying knowledge of mathematics and natural sciences gained by study, experience and practice is applied to develop ways to best utilize, economically, the materials of nature for the benefit of mankind” (Source: Wiktionary). Professional Ethics is a set of Standards defined by the professional community which provides guidance for behavior that is expected from the professional.

In 1947 the National Society of Professional Engineers (NSPE) developed a code of ethics which most states’ Boards of Engineers most often cite as reference for a Code of Ethics standard.

Engineers often belong to organizations based upon their technical practice. These would include American Society of Civil Engineers (ASCE), American Society of Mechanical Engineers (ASME), Institute of Electrical Engineers (IEEE), American Institute of Chemical Engineers (AICE), and many others. Each of these technical organizations, and the others, have their own specific codes of ethics. All have ethical commonalities with the NSPE Code of Ethics. NSPE is a non-technical engineering society which is organized specifically upon the engineer’s license, but not specifically about a technical area of practice.

NSPE’s code consists of a Summary Statement (creed), Preamble, Fundamental Canons, Rules of Practice, and Professional Obligations.

NSPE’s Code of Ethics are summarized in its general “Fundamental Canons” which included the following.

Engineers in the fulfillment of their professional duties, shall:

1. Hold paramount the safety, health, and welfare of the public in the performance of its professional duties.
2. Perform services only in areas of their competence.
3. Issue public statements only in an objective and truthful manner.
4. Act in professional matters for each employer or client as faithful agents or trustees.
5. Avoid deceptive acts in the solicitation of professional employment.

Each of these are further specifically defined in extensive detail in the NSPE Rules of Practice, giving guidance to the practice. Copies of these are attached for reference.

5. Considerations of Code Violations

In order to protect the public, the license and its credibility, it is MSPE’s position that violations of the Code of Ethics have consequences which require sanctions and enforcement. MSPE believes that the license to practice engineering is an earned privilege not a right. The license has been created to primarily protect the people of the State of Michigan. MSPE understands that violations can vary in circumstances, intentions, and effects. MSPE is presenting three violations as examples for considerations of consequences. Obviously, many other sanctions and violations exist. These are presented to illustrate the latitude of violations and subsequent magnitude of necessary sanctions.

Illicit defaming of another Professional Engineer

Sealing plans and/or documents without personal preparation or supervision

Bribing a private or governmental official to obtain contracts

Discussion

ILLCIT DEFAMING ANOTHER PROFESSIONAL ENGINEER:

This is a violation of subsection III, Professional Obligations of the NSPE code, item No. 7: “Engineers shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice, or employment of other engineers. Engineers who believe others are guilty of unethical or illegal practice shall present such information to the proper authority for action.”

This is a violation which may injure another’s reputation and livelihood but is also unprofessional in behavior. This behavior may be the result of momentary anger without premeditation. The code encourages that disputes use the proper licensing system to address such concerns and discourages the use of a more public forum. This behavior may have severe consequences for the injured but also potentially the credibility of the licensee.

SEALING PLANS/DOCUMENTS WITHOUT PROFESSIONAL INVOLVEMENT/DESIGN OR SUPERVISION

This is a violation of III Professional Obligation, Section 2 (b) of the NSPE code: “Engineers shall not complete, sign, or seal plans and/or specifications that are not in conformity with applicable engineering standards. If the client or employer insists on such unprofessional conduct, they shall notify the proper authorities and withdraw from further service on the project.”

This violation gives impressions that a sealed documents have been prepared by a professional engineer and are sound, appropriate, and present little or no harm to the public, client, or individuals. Such sealing without engineering supervision/preparation may actually result in serious harm to humans and/or property. Sealing without personal preparation, involvement, further degrades the credibility of the sealing process and places the violator in potential liability should the design be unsound and unsafe.

This is a more serious violation due to its exposure to the public, project owners, and users to harm. Such violations further present the seal as a commodity, and not a serious protection to the public health, safety, and welfare. The violator may seal such documents as a “favor” to an acquaintance without a serious consideration of potential consequences or may seal documents for something of value.

BRIBING A PRIVATE OR GOVERNMENTAL OFFICIAL TO OBTAIN CONTRACTS

This is a violation of Section III Professional Obligations of the NSPE Code, Subsection 4: “Engineers shall act for each employer or client as faithful agents or trustees.” and Subsection 5 “Engineers shall avoid deceptive acts”.

This is a very serious violation of the Code of Ethics. Should the gift of influence be slight in value, such as a meal, it may be innocent and of little value but may place the recipient and giver in an awkward and a professionally compromised position.

Should the gift of influence be large sums of money, it is serious because:

- It is intentionally given to receive a return value

- It is a corruption of the giver and receiver, which presents a circumstance which is difficult to correct

- It is a violation of the protection of the client/public entities’ (governmental agencies) responsibilities

- It may damage a competitive bid process

It damages the public perception of the violator's (professional engineer) professional integrity which may further adversely affect the perception of the engineering profession.

CONSEQUENCES

It is acknowledged that violations of the Engineers Code of Ethics may have differing effects depending upon the circumstances. They may be unintentional, accidental, an overreaction, minor in nature, a matter of poor judgement, and a misguided effort to aid an acquaintance. These may be of little consequence. They can also be premeditative, criminal, corruptive of the system, corruptive of the parties involved, and damaging to personal, professional, governmental, and corporate reputations.

All of these violations may erode the public's confidence in the individual licensed engineer or the professional engineers as a whole's reputations. Unsanctioned, this will ultimately affect the community at large, its economic health, and community reputation. These violations may also result in personal harm and property damage.

States across the nation, including Wisconsin, Illinois, and Ohio already have stated legal repercussions to ethics violations in their respective state codes. We feel that Michigan should develop a stakeholder group to evaluate a code that best serves our State.

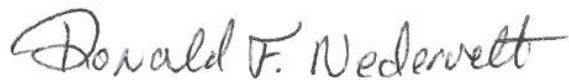
With much at risk to the individual and the professional's reputation, reliability, and integrity, MSPE whole heartedly supports the State Board of Professional Engineer's efforts to wisely, and fairly, administer, and manage the Michigan licensed professional engineers.

The State Board or Professional Engineers and the criminal court system are the ultimate and foremost protector of the State's public health, safety, and welfare regarding the professional engineering practice. MSPE believes that the professional engineer's license is an honored privilege to serve the public, and that the Board's relative sanctioned consequences to a violator are secondary to the protection of the public. With careful thought and deliberation, and guidance from the Engineers Code of Ethics we recommend and support that it protect the public, the professional engineers license and keep these thoughts foremost to its role.

Thank you for your efforts and consideration of this position paper.

Sincerely and Respectfully Prepared and Submitted,

The Michigan Society of Professional Engineers

A handwritten signature in cursive script that reads "Donald F. Nedervelt".

Donald Nedervelt, PE
2021-2022 MSPE President

Attachments to Position Paper: Code of Ethics (NSPE)

- 1. National Society of Professional Engineers: Code of Ethics of Engineers**
- 2. State of Michigan PA 399 of 1980, as Amended, and its Article 20**

Preamble

Engineering is an important and learned profession. As members of this profession, engineers are expected to exhibit the highest standards of honesty and integrity. Engineering has a direct and vital impact on the quality of life for all people. Accordingly, the services provided by engineers require honesty, impartiality, fairness, and equity, and must be dedicated to the protection of the public health, safety, and welfare. Engineers must perform under a standard of professional behavior that requires adherence to the highest principles of ethical conduct.

I. Fundamental Canons

Engineers, in the fulfillment of their professional duties, shall:

1. Hold paramount the safety, health, and welfare of the public.
2. Perform services only in areas of their competence.
3. Issue public statements only in an objective and truthful manner.
4. Act for each employer or client as faithful agents or trustees.
5. Avoid deceptive acts.
6. Conduct themselves honorably, responsibly, ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession.

II. Rules of Practice

1. Engineers shall hold paramount the safety, health, and welfare of the public.

- a. If engineers' judgment is overruled under circumstances that endanger life or property, they shall notify their employer or client and such other authority as may be appropriate.
- b. Engineers shall approve only those engineering documents that are in conformity with applicable standards.
- c. Engineers shall not reveal facts, data, or information without the prior consent of the client or employer except as authorized or required by law or this Code.
- d. Engineers shall not permit the use of their name or associate in business ventures with any person or firm that they believe is engaged in fraudulent or dishonest enterprise.
- e. Engineers shall not aid or abet the unlawful practice of engineering by a person or firm.
- f. Engineers having knowledge of any alleged violation of this Code shall report thereon to appropriate professional bodies and, when relevant, also to public authorities, and cooperate with the proper authorities in furnishing such information or assistance as may be required.

2. Engineers shall perform services only in the areas of their competence.

- a. Engineers shall undertake assignments only when qualified by education or experience in the specific technical fields involved.
- b. Engineers shall not affix their signatures to any plans or documents dealing with subject matter in which

they lack competence, nor to any plan or document not prepared under their direction and control.

- c. Engineers may accept assignments and assume responsibility for coordination of an entire project and sign and seal the engineering documents for the entire project, provided that each technical segment is signed and sealed only by the qualified engineers who prepared the segment.

3. Engineers shall issue public statements only in an objective and truthful manner.

- a. Engineers shall be objective and truthful in professional reports, statements, or testimony. They shall include all relevant and pertinent information in such reports, statements, or testimony, which should bear the date indicating when it was current.
- b. Engineers may express publicly technical opinions that are founded upon knowledge of the facts and competence in the subject matter.
- c. Engineers shall issue no statements, criticisms, or arguments on technical matters that are inspired or paid for by interested parties, unless they have prefaced their comments by explicitly identifying the interested parties on whose behalf they are speaking, and by revealing the existence of any interest the engineers may have in the matters.

4. Engineers shall act for each employer or client as faithful agents or trustees.

- a. Engineers shall disclose all known or potential conflicts of interest that could influence or appear to influence their judgment or the quality of their services.
- b. Engineers shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.
- c. Engineers shall not solicit or accept financial or other valuable consideration, directly or indirectly, from outside agents in connection with the work for which they are responsible.
- d. Engineers in public service as members, advisors, or employees of a governmental or quasi-governmental body or department shall not participate in decisions with respect to services solicited or provided by them or their organizations in private or public engineering practice.
- e. Engineers shall not solicit or accept a contract from a governmental body on which a principal or officer of their organization serves as a member.

5. Engineers shall avoid deceptive acts.

- a. Engineers shall not falsify their qualifications or permit misrepresentation of their or their associates' qualifications. They shall not misrepresent or exaggerate their responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident

to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint venturers, or past accomplishments.

- b. Engineers shall not offer, give, solicit, or receive, either directly or indirectly, any contribution to influence the award of a contract by public authority, or which may be reasonably construed by the public as having the effect or intent of influencing the awarding of a contract. They shall not offer any gift or other valuable consideration in order to secure work. They shall not pay a commission, percentage, or brokerage fee in order to secure work, except to a bona fide employee or bona fide established commercial or marketing agencies retained by them.

III. Professional Obligations

1. Engineers shall be guided in all their relations by the highest standards of honesty and integrity.

- a. Engineers shall acknowledge their errors and shall not distort or alter the facts.
- b. Engineers shall advise their clients or employers when they believe a project will not be successful.
- c. Engineers shall not accept outside employment to the detriment of their regular work or interest. Before accepting any outside engineering employment, they will notify their employers.
- d. Engineers shall not attempt to attract an engineer from another employer by false or misleading pretenses.
- e. Engineers shall not promote their own interest at the expense of the dignity and integrity of the profession.
- f. Engineers shall treat all persons with dignity, respect, fairness, and without discrimination.

2. Engineers shall at all times strive to serve the public interest.

- a. Engineers are encouraged to participate in civic affairs; career guidance for youths; and work for the advancement of the safety, health, and well-being of their community.
- b. Engineers shall not complete, sign, or seal plans and/or specifications that are not in conformity with applicable engineering standards. If the client or employer insists on such unprofessional conduct, they shall notify the proper authorities and withdraw from further service on the project.
- c. Engineers are encouraged to extend public knowledge and appreciation of engineering and its achievements.
- d. Engineers are encouraged to adhere to the principles of sustainable development¹ in order to protect the environment for future generations.
- e. Engineers shall continue their professional development throughout their careers and should keep current in their specialty fields by engaging in professional practice, participating in continuing education courses, reading in the technical literature, and attending professional meetings and seminar.

3. Engineers shall avoid all conduct or practice that deceives the public.

- a. Engineers shall avoid the use of statements containing a material misrepresentation of fact or omitting a material fact.
- b. Consistent with the foregoing, engineers may advertise for recruitment of personnel.
- c. Consistent with the foregoing, engineers may prepare articles for the lay or technical press, but such articles shall not imply credit to the author for work performed by others.

4. Engineers shall not disclose, without consent, confidential information concerning the business affairs or technical processes of any present or former client or employer, or public body on which they serve.

- a. Engineers shall not, without the consent of all interested parties, promote or arrange for new employment or practice in connection with a specific project for which the engineer has gained particular and specialized knowledge.
- b. Engineers shall not, without the consent of all interested parties, participate in or represent an adversary interest in connection with a specific project or proceeding in which the engineer has gained particular specialized knowledge on behalf of a former client or employer.

5. Engineers shall not be influenced in their professional duties by conflicting interests.

- a. Engineers shall not accept financial or other considerations, including free engineering designs, from material or equipment suppliers for specifying their product.
- b. Engineers shall not accept commissions or allowances, directly or indirectly, from contractors or other parties dealing with clients or employers of the engineer in connection with work for which the engineer is responsible.

6. Engineers shall not attempt to obtain employment or advancement or professional engagements by untruthfully criticizing other engineers, or by other improper or questionable methods.

- a. Engineers shall not request, propose, or accept a commission on a contingent basis under circumstances in which their judgment may be compromised.
- b. Engineers in salaried positions shall accept part-time engineering work only to the extent consistent with policies of the employer and in accordance with ethical considerations.
- c. Engineers shall not, without consent, use equipment, supplies, laboratory, or office facilities of an employer to carry on outside private practice.

7. Engineers shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice, or employment of other engineers. Engineers who believe others are guilty of unethical or illegal practice shall present such information to the proper authority for action.

- a. Engineers in private practice shall not review the work of another engineer for the same client, except with the knowledge of such engineer, or unless the connection of such engineer with the work has been terminated.
- b. Engineers in governmental, industrial, or educational employ are entitled to review and evaluate the work of other engineers when so required by their employment duties.
- c. Engineers in sales or industrial employ are entitled to make engineering comparisons of represented products with products of other suppliers.

8. Engineers shall accept personal responsibility for their professional activities, provided, however, that engineers may seek indemnification for services arising out of their practice for other than gross negligence, where the engineer's interests cannot otherwise be protected.

- a. Engineers shall conform with state registration laws in the practice of engineering.
- b. Engineers shall not use association with a nonengineer, a corporation, or partnership as a "cloak" for unethical acts.

9. Engineers shall give credit for engineering work to those to whom credit is due, and will recognize the proprietary interests of others.

- a. Engineers shall, whenever possible, name the person or persons who may be individually responsible for designs, inventions, writings, or other accomplishments.
- b. Engineers using designs supplied by a client recognize that the designs remain the property of the client and may not be duplicated by the engineer for others without express permission.
- c. Engineers, before undertaking work for others in connection with which the engineer may make improvements, plans, designs, inventions, or other records that may justify copyrights or patents, should enter into a positive agreement regarding ownership.
- d. Engineers' designs, data, records, and notes referring exclusively to an employer's work are the employer's property. The employer should indemnify the engineer for use of the information for any purpose other than the original purpose.

Footnote 1 "Sustainable development" is the challenge of meeting human needs for natural resources, industrial products, energy, food, transportation, shelter, and effective waste management while conserving and protecting environmental quality and the natural resource base essential for future development.

"By order of the United States District Court for the District of Columbia, former Section 11(c) of the NSPE Code of Ethics prohibiting competitive bidding, and all policy statements, opinions, rulings or other guidelines interpreting its scope, have been rescinded as unlawfully interfering with the legal right of engineers, protected under the antitrust laws, to provide price information to prospective clients; accordingly, nothing contained in the NSPE Code of Ethics, policy statements, opinions, rulings or other guidelines prohibits the submission of price quotations or competitive bids for engineering services at any time or in any amount."

Statement by NSPE Executive Committee

In order to correct misunderstandings which have been indicated in some instances since the issuance of the Supreme Court decision and the entry of the Final Judgment, it is noted that in its decision of April 25, 1978, the Supreme Court of the United States declared: "The Sherman Act does not require competitive bidding."

It is further noted that as made clear in the Supreme Court decision:

1. Engineers and firms may individually refuse to bid for engineering services.
2. Clients are not required to seek bids for engineering services.
3. Federal, state, and local laws governing procedures to procure engineering services are not affected, and remain in full force and effect.
4. State societies and local chapters are free to actively and aggressively seek legislation for professional selection and negotiation procedures by public agencies.
5. State registration board rules of professional conduct, including rules prohibiting competitive bidding for engineering services, are not affected and remain in full force and effect. State registration boards with authority to adopt rules of professional conduct may adopt rules governing procedures to obtain engineering services.
6. As noted by the Supreme Court, "nothing in the judgment prevents NSPE and its members from attempting to influence governmental action . . ."

Note: In regard to the question of application of the Code to corporations vis-a-vis real persons, business form or type should not negate nor influence conformance of individuals to the Code. The Code deals with professional services, which services must be performed by real persons. Real persons in turn establish and implement policies within business structures. The Code is clearly written to apply to the Engineer, and it is incumbent on members of NSPE to endeavor to live up to its provisions. This applies to all pertinent sections of the Code.

OCCUPATIONAL CODE (EXCERPT)
Act 299 of 1980

ARTICLE 20

339.2001 Definitions.

Sec. 2001. As used in this article:

(a) "Architect" means a person who, by reason of knowledge of mathematics, the physical sciences, and the principles of architectural design, acquired by professional education and practical experience, is qualified to engage in the practice of architecture.

(b) "Firm" means a sole proprietorship, partnership, corporation, or limited liability company through which a person licensed under this article offers or provides a service to the public.

(c) "Person" means a natural person notwithstanding section 105(5).

(d) "Person in responsible charge" means a person licensed under this article who determines technical questions of design and policy; advises the client; supervises and is in responsible charge of the work of subordinates; is the person whose professional skill and judgment are embodied in the plans, designs, plats, surveys, and advice involved in the services; and who supervises the review of material and completed phases of construction.

(e) "Practice of architecture" means professional services, such as consultation, investigation, evaluation, planning, design, or review of material and completed phases of work in construction, alteration, or repair in connection with a public or private structure, building, equipment, works, or project if the professional service requires the application of a principle of architecture or architectural design.

(f) "Practice of professional surveying" means providing professional services such as consultation, investigation, testimony, evaluation, planning, mapping, assembling, and interpreting reliable scientific measurements and information relative to the location, size, shape, or physical features of the earth, improvements on the earth, the space above the earth, or any part of the earth, and the utilization and development of these facts and interpretations into an orderly survey map, plan, report, description, or project. The practice of professional surveying includes all of the following:

(i) Land surveying that is the surveying of an area for its correct determination or description for its conveyance, or for the establishment or reestablishment of a land boundary and the designing or design coordination of the plotting of land and the subdivision of land.

(ii) Geodetic surveying that includes surveying for determination of the size and shape of the earth both horizontally and vertically and the precise positioning of points on the earth utilizing angular and linear measurements through spatially oriented spherical geometry.

(iii) Utilizing and managing land information systems through establishment of datums and local coordinate systems and points of reference.

(iv) Engineering and architectural surveying for design and construction layout of infrastructure.

(v) Cartographic surveying for making maps, including topographic and hydrographic mapping.

(g) "Practice of professional engineering" means professional services, such as consultation, investigation, evaluation, planning, design, or review of material and completed phases of work in construction, alteration, or repair in connection with a public or private utility, structure, building, machine, equipment, process, work, or project, if the professional service requires the application of engineering principles or data.

(h) "Principal" means a sole proprietor, partner, the president, vice-president, secretary, treasurer, or director of a corporation, or a member or manager of a limited liability company.

(i) "Professional engineer" means a person who, by reason of knowledge of mathematics, the physical sciences, and the principles of engineering, acquired by professional education and practical experience, is qualified to engage in the practice of professional engineering.

(j) "Professional surveyor" means a person who, by reason of knowledge of law, mathematics, physical sciences, and techniques of measuring acquired by professional education and practical experience, is qualified to engage in the practice of professional surveying.

(k) "Services" means professional service offered or provided by an architect in the practice of architecture, a professional engineer in the practice of professional engineering, or a professional surveyor in the practice of professional surveying.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1992, Act 103, Eff. Sept. 1, 1992;—Am. 1997, Act 122, Imd. Eff. Nov. 3, 1997;—Am. 1998, Act 218, Imd. Eff. July 1, 1998.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular name: Act 299

339.2002 Boards of architects, professional engineers, and professional surveyors; creation; membership; terms; resignation, disability, or removal for cause.

Sec. 2002. (1) The boards of architects, of professional engineers, and of professional surveyors are created.

(2) The board of architects consists of 5 architects, 1 professional engineer who is a member of the board of professional engineers, and 1 professional surveyor who is a member of the board of professional surveyors. Two members of the board shall represent the general public.

(3) The board of professional engineers consists of 5 professional engineers, 1 architect who is a member of the board of architects, and 1 professional surveyor who is a member of the board of professional surveyors. Two members of the board shall represent the general public.

(4) The board of professional surveyors consists of 5 professional surveyors, 1 professional engineer who is a member of the board of professional engineers, and 1 architect who is a member of the board of architects. Two members of the board shall represent the general public.

(5) Of the initial members of the board of architects, the terms of 3 of the members, including 2 of the members who are licensed architects and 1 of the members representing the general public, shall be 4 years; the term of 1 of the members who is a licensed architect shall be 3 years; the term of 1 of the members who is a licensed architect shall be 2 years; and the terms of 2 of the members, including 1 of the members who is a licensed architect and 1 of the members of the general public, shall be 1 year. The term of the member who is a licensed professional engineer shall coincide with that member's term on the board of professional engineers. The term of the member who is a licensed professional surveyor shall coincide with that member's term on the board of professional surveyors.

(6) Of the initial members of the board of professional engineers, the terms of 3 of the members, including 2 of the members who are licensed professional engineers and 1 of the members representing the general public, shall be 4 years; the term of 1 of the members who is a licensed professional engineer shall be 3 years; the term of 1 of the members who is a licensed professional engineer shall be 2 years; and the terms of 2 of the members, including 1 of the members who is a licensed professional engineer and 1 of the members of the general public shall be 1 year. The term of the member who is a licensed architect shall coincide with that member's term on the board of architects. The term of the member who is a licensed professional surveyor shall coincide with that member's term on the board of professional surveyors.

(7) Of the initial members of the board of professional surveyors, the terms of 3 of the members, including 2 of the members who are licensed professional surveyors and 1 of the members representing the general public, shall be 4 years; the term of 1 of the members who is a licensed professional surveyor shall be 3 years; the term of 1 of the members who is a licensed professional surveyor shall be 2 years; and the terms of 2 of the members, including 1 of the members who is a licensed professional surveyor and 1 of the members of the general public, shall be 1 year. The term of the member who is a licensed professional engineer shall coincide with that member's term on the board of professional engineers. The term of the member who is a licensed architect shall coincide with that member's term on the board of architects.

(8) A licensee who serves on more than 1 board created under this article, and who resigns, is disabled, or is removed for cause by the governor from the board under which he or she is licensed, shall no longer represent that board on any other board created under this article.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1992, Act 103, Eff. Sept. 1, 1992

Popular name: Act 299

339.2003 Joint meetings of boards.

Sec. 2003. A joint meeting of the boards created by this article shall be held at least once annually at a time and place determined by the department. Two or more of the boards created by this article may meet jointly at the call of the chairperson of a board created by this article.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

Popular name: Act 299

339.2004 Architect, professional engineer, and professional surveyor; licensing requirements.

Sec. 2004. (1) In order to be licensed as an architect, an individual must meet all of the following:

(a) Provide evidence of completion of a first professional degree or further degree in architecture satisfactory to the board of architects.

(b) Pass an examination that tests the applicant's qualifications to practice architecture or provide equivalent proof of qualification acceptable to the department and the board of architects.

(c) Be of good moral character.

(d) Provide documentation of professional experience in architectural work satisfactory to the board.

(2) In order to be licensed as a professional engineer, an individual must meet all of the following:

(a) Provide documentation of at least 8 years of professional experience in engineering work acceptable to the board of professional engineers, including not more than 5 years of education.

(b) Provide evidence of completion of a baccalaureate degree in engineering from an accredited program or its equivalent, as determined by the board of professional engineers.

(c) Pass the engineering fundamentals and professional practice examinations or provide equivalent proof of qualification to practice professional engineering acceptable to the department and the board.

(d) Be of good moral character.

(3) In order to be licensed as a professional surveyor, an individual must meet all of the following:

(a) Provide documentation of at least 8 years of professional experience in professional surveying satisfactory to the board of professional surveyors, including not more than 5 years of education.

(b) Provide evidence of completion of a degree in professional surveying or a related degree that included professional surveying courses acceptable to the board of professional surveyors.

(c) Pass the professional surveying fundamentals and professional practice examinations or provide equivalent proof of qualification to practice professional surveying acceptable to the department and the board.

(d) Be of good moral character.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1988, Act 463, Eff. Sept. 1, 1989;—Am. 2009, Act 143, Imd. Eff. Nov. 10, 2009;—Am. 2016, Act 435, Eff. Apr. 4, 2017.

Popular name: Act 299

339.2005 Repealed. 2016, Act 435, Eff. Apr. 4, 2017.

Compiler's note: The repealed section pertained to examination requirements for architect, professional engineer, and professional surveyor licensure.

339.2006 Maintenance of court action; allegation and proof of licensure; failure to make restitution.

Sec. 2006. (1) A person, a qualifying officer, a licensee, or an agent for a licensee under this article shall not bring or maintain an action in a court of this state for the collection of compensation for the performance of an act or contract for which licensure is required under this article without alleging and proving that the person, qualifying officer, licensee, or agent was licensed under this article during the performance of the act or contract. A person who has utilized the services of a person engaging in or attempting to engage in an occupation regulated under this article or using a title designated by this article without being licensed by the department may bring an action in a court of competent jurisdiction, or offer as a counterclaim to an action brought by an unlicensed person, for a refund of compensation after deducting the value of the goods or services retained by the person.

(2) If the department suspends a license for failure to make restitution, in whole or in part, the restitution in the form of repair or remedial corrective work shall be performed by a person appropriately licensed under this article and shall be paid for by the licensee.

History: Add. 2008, Act 319, Eff. Mar. 31, 2009.

Compiler's note: Former MCL 339.2006, which pertained to application for licensure, was repealed by Act 463 of 1988, Eff. Sept. 1, 1989

Popular name: Act 299

339.2007 Seal; signature.

Sec. 2007. (1) When he or she is licensed, a licensee shall obtain or adopt a seal, in a form authorized by the appropriate board, that bears the licensee's name and the legend indicating either "licensed architect", "licensed professional engineer", or "licensed professional surveyor". However, a seal that exists on September 1, 1992 and bears the legend "registered architect", "registered professional engineer", "registered land surveyor", or "licensed land surveyor" is acceptable if a seal is required under state law.

(2) A licensee shall apply his or her seal and signature to a plan, specification, plat, or report that is issued by the licensee and filed with a public authority. If the license of the licensee named on a document has expired or is suspended or revoked, a person shall not apply the licensee's seal or signature to the document unless the license is renewed, reinstated, or reissued.

(3) As used in this section and section 2008:

(a) "Electronic seal" means a seal created by electronic or optical means and affixed electronically to a document or electronic document.

(b) "Electronic signature" means a signature created by electronic or optical means and affixed electronically to a document or electronic document with intent to sign the document.

(c) "Seal" includes an electronic seal.

(d) "Signature" includes an electronic signature.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1992, Act 103, Eff. Sept. 1, 1992;—Am. 2013, Act 178, Eff. Feb. 25, 2014.

Popular name: Act 299

339.2008 Sealing documents requiring governmental agency approval or record; projects involving overlapping of architecture and engineering professions; sealing documents not prepared by licensee prohibited.

Sec. 2008. (1) A plan, plat, drawing, map, and the title sheet of specifications, an addendum, bulletin, or report or, if a bound copy is submitted, the index sheets of a plan, specification, or report, if prepared by a licensee and required to be submitted to a governmental agency for approval or record, shall carry the embossed, printed, or electronic seal of the person in responsible charge.

(2) If the overlapping of the professions of architecture and engineering is involved in a project, a licensed architect or licensed professional engineer who seals the plans, drawings, specifications, and reports may perform services in the field of the other practice if the services are incidental to the architectural or engineering project as a whole.

(3) A licensee shall not seal a plan, drawing, map, plat, report, specification, or other document that is not prepared by the licensee or under the supervision of the licensee as the person in responsible charge.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 2013, Act 178, Eff. Feb. 25, 2014.

Popular name: Act 299

339.2009 Renewal of license; continuing education.

Sec. 2009. (1) Beginning the license cycle after the effective date of the rules promulgated under subsection (2), a demonstration of the completion of a program of continuing education shall be required for renewal of a license issued under this article.

(2) The department shall, by rule, establish a program of continuing education for all licensees under this article.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1988, Act 463, Eff. Sept. 1, 1989;—Am. 2010, Act 324, Imd. Eff. Dec. 21, 2010.

Popular name: Act 299

339.2010 Firm; practice of architecture, professional engineering, or professional surveying; approval of nonlicensed principal and principal's firm; report; person in responsible charge at each place of business; exception.

Sec. 2010. (1) A firm may engage in the practice of architecture, professional engineering, or professional surveying in this state, if not less than 2/3 of the principals of the firm are licensees.

(2) However, a nonlicensed principal and the principal's firm shall apply for and receive an approval from the department to engage in the practice of architecture, professional engineering, or professional surveying, if the conduct of the firm and its principals comply with rules promulgated by the department.

(3) Upon request by the department, a firm shall report to the department the names and addresses of its principals, persons in responsible charge, unlicensed principals, and any other information the department considers necessary.

(4) A firm shall employ a person in responsible charge in the field of services offered at each place of business in this state where services are offered by the firm, except at a field office which provides only a review of construction.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1992, Act 103, Eff. Sept. 1, 1992.

Popular name: Act 299

339.2011 Construction of public work involving architecture or professional engineering; requirements; exception.

Sec. 2011. (1) Except as otherwise provided in subsection (2), the state or a county, city, township, village, school district, or other political subdivision of this state shall not engage in the construction of a public work

involving the practice of architecture or professional engineering unless all of the following requirements are met:

(a) The plans and specifications and estimates have been prepared by a licensed architect or licensed professional engineer.

(b) The review of the materials used and completed phases of construction is made under the direct supervision of a licensed architect or licensed professional engineer.

(c) Each survey of land on which the public work has been or is to be constructed is made under the supervision of a licensed professional surveyor.

(2) This section does not apply to a public work for which the contemplated expenditure for the completed project is less than \$15,000.00.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1992, Act 103, Eff. Sept. 1, 1992

Popular name: Act 299

339.2012 Persons exempted.

Sec. 2012. (1) The following persons are exempt from the requirements of this article:

(a) A professional engineer employed by a railroad or other interstate corporation, whose employment and practice is confined to the property of the corporation.

(b) A designer of a manufactured product, if the manufacturer of the product assumes responsibility for the quality of the product.

(c) An owner doing architectural, engineering, or surveying work upon or in connection with the construction of a building on the owner's property for the owner's own use to which employees and the public are not generally to have access.

(d) A person not licensed under this article who is planning, designing, or directing the construction of a detached 1- and 2-family residence building not exceeding 3,500 square feet in calculated floor area. For purposes of this subdivision, detached 1- and 2-family residence building does not include an adult foster care home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

(e) A person who is licensed to engage in the practice of architecture, professional engineering, or professional surveying in another state while temporarily in this state to present a proposal for services.

(2) As used in this section:

(a) "Calculated floor area" means that portion of the total gross area measured to the outside surfaces of exterior walls intended to be habitable space.

(b) "Habitable space" means space in a building used for living, sleeping, eating, or cooking. Habitable space does not include a heater or utility room, a crawl space, a basement, an attic, a garage, an open porch, a balcony, a terrace, a court, a deck, a bathroom, a toilet room, a closet, a hallway, a storage space, and other similar spaces not used for living, sleeping, eating, or cooking.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1992, Act 103, Eff. Sept. 1, 1992;—Am. 2002, Act 495, Imd. Eff. July 3, 2002.

Popular name: Act 299

339.2013 Issuing license to person holding certificate of qualification or registration of another state or national council; equivalency; temporary license prohibited; review of application of individual seeking relicensure or reinstatement.

Sec. 2013. (1) The department, upon application, shall issue a license to a person who holds an appropriate certificate of qualification or registration issued by proper authority of a board of registration examiners of another state or national council acceptable to the department and the board, if the requirements for the registration of architects, professional engineers, or professional surveyors under which the certificate of qualification or registration was issued are determined to be equivalent to the appropriate board. A board under this article shall not issue a temporary license as provided under section 213.

(2) The appropriate board shall review the application of an individual who seeks relicensure or reinstatement 3 or more years after the expiration of the individual's most recent license if the individual does not meet the requirements for licensure in force at the time of application for relicensure or reinstatement.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1988, Act 463, Eff. Sept. 1, 1989;—Am. 1992, Act 103, Eff. Sept. 1, 1992.

Popular name: Act 299

339.2014 Prohibited conduct; penalties.

Sec. 2014. A person is subject to the penalties set forth in article 6 who commits 1 of the following:

(a) Uses the term "architect", "professional engineer", "land surveyor", "professional surveyor", or a similar term in connection with the person's name unless the person is licensed in the appropriate practice under this article.

(b) Presents or attempts to use as the person's own the license or seal of another.

(c) Attempts to use an expired, suspended, or revoked license.

(d) Uses the words "architecture", "professional engineering", "land surveying", "professional surveying", or a similar term in a firm name without authorization by the appropriate board.

(e) Submits to a public official of this state or a political subdivision of this state for approval, a permit or a plan for filing as a public record, a specification, a report, or a land survey that does not bear 1 or more seals of a licensee as required by this article. This subdivision does not apply to a public work costing less than \$15,000.00 or a residential building containing not more than 3,500 square feet of calculated floor area. As used in this subdivision, "calculated floor area" means that term as defined in section 2012(2)(a).

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1992, Act 103, Imd. Eff. Sept. 1, 1992;—Am. 2002, Act 495, Imd. Eff. July 3, 2002.

Popular name: Act 229