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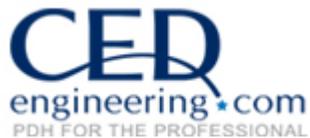
# Engineering Ethics for Louisiana Professional Engineers

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# Chapter 1

## Overview of Louisiana Engineering Board Regulations

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### **Louisiana Professional Engineering and Land Surveying Board**

The Louisiana Professional Engineering and Land Surveying Board is the primary government body that regulates the practice of engineering within the State of Louisiana. The Board consists of eleven (11) members as follows: nine (9) licensed professional engineers and two (2) licensed professional surveyors and two public members. All ten members are appointed by the Governor for five- to six-year terms.

The Board has the authority to implement provisions of Title 37, Chapter 8 of the "Louisiana Revised Statutes" (LRS), also known as the "Engineering Law" and Title 46, Part LXI of the Louisiana Administrative Code (LAC), which constitute the "Rules of the Board".

### **Louisiana Administrative Code (LAC)**

The Louisiana Revised Statutes are supplemented by rules embodied in the Louisiana Administrative Code (LAC). Title 46, Professional and Occupational Standards, Part LXI. Professional Engineers and Land Surveyors constitute the "Rules of the Board".

The LAC is a compilation of the rules and regulations of the Louisiana regulatory agencies. Its counterpart in the federal system is the *Code of Federal Regulations*. It is organized by titles with each title number representing a department, commission, board or other agency. The set has a single comprehensive index volume.

The LAC states the rule followed by statutory authority, implementation and a history of the rule. The set is annotated with decisions of the Federal courts, State appellate courts, State Attorney General opinions, final and recommended orders of the Division of Administrative Hearings and final agency orders. At the end of each rule in the LAC, an authority note is located indicating the LRS citation promulgating this rule. Furthermore, a history note is also located indicating when the rule has been modified, renumbered, or repealed.

Title 46, Part LXI of the LAC pertains exclusively to the Louisiana Professional Engineering and Land Surveying Board and its functions with respect to the practice of engineering. Pertinent sections of Title 46, Part LXI of the Louisiana Administrative Code, which relate to the code of professional conduct and responsibility, are presented in Chapter 2.

## **Louisiana Revised Statutes (LRS)**

The Louisiana Legislature found that it was necessary in the interest of public health and safety to regulate the practice of engineering in the State of Louisiana and thus created the Louisiana Revised Statutes (LRS) 37:681 through 37:703 of Chapter 8. These statutes are a collection of state laws organized by subject area into a code made up of titles and chapters. They are enacted by the Louisiana Legislature and can be amended only by the Legislature.

The LRS establish and delineate the powers of the Professional Engineering and Land Surveying Board and are commonly referred to as "the engineering law" or "the law". Under this law, the Louisiana Board is responsible for reviewing applications, administering examinations, licensing qualified applicants, and regulating the practice of engineering throughout the state.

Similar to Title 46 of the Louisiana Administrative Code, these statutes were created by laws that adopt, amend, or repeal statutory material. Pertinent sections of Title 37, Chapter 8, which relate to the code of professional conduct and responsibility, are presented in Chapter 3 below.

## **Louisiana Board Disciplinary Process**

Under Louisiana Revised Statutes 37:698, the Board has the authority to take disciplinary action against any licensee or certificate holder who is found by the Board to be guilty of any of the acts or offenses under the laws and rules of the engineering profession. That disciplinary action can include reprimand, probation, suspension, revocation of license or certificate, refusal to renew license or certificate, or fine in an amount not to exceed five thousand dollars (\$5,000.00) per violation.

Under Louisiana Revised Statutes 37:700, the Board also has the authority to take enforcement action against any non-licensee or non-certificate holder who is found by the Board to be guilty of any of the acts or offenses under the laws and rules of the engineering profession. That enforcement action can include a fine in an amount not to exceed five thousand dollars (\$5,000.00) per violation.

Any of these actions may be taken following an administrative disciplinary/enforcement hearing. An administrative hearing may result when results of the investigation of a sworn affidavit of complaint substantiates the allegation that a violation of the Board's laws and/or rules may have occurred.

In situations where the Board determines after investigation that the allegations(s) filed are completely unfounded, more appropriately resolved outside the formal disciplinary or enforcement proceedings, or not within the jurisdiction of the Board, the Board will notify the respondent and complainant in writing of its decision.

Several disciplinary cases, presented in Chapter 4 below, were selected at random to further illustrate the disciplinary actions taken by the Board. In selecting these cases, different scenarios of violations are depicted along with their corresponding final decisions issued by the Board.

# Chapter 2

## LA Administrative Code - Professional Conduct

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### Title 46, Part LXI: Professional Engineers and Land Surveyors

*The following are excerpts from Title 46, Part LXI of the Louisiana Administrative Code as it relates to professional conduct. If you wish to review the entire part, please visit the website of the Louisiana Board at:*

[http://www.lapels.com/docs/Laws\\_and\\_Rules/Board\\_Rules\\_updated\\_082015.pdf](http://www.lapels.com/docs/Laws_and_Rules/Board_Rules_updated_082015.pdf)

### Chapter 25. Professional Conduct

#### §2501. Scope; Knowledge; Definition of Licensee

A. In order to safeguard life, health and property, to promote the public welfare, and to establish and maintain a high standard of integrity and practice, the following rules of professional conduct shall be binding on every licensee. These rules of professional conduct deal primarily with the relationship between licensees and the public, and should not be construed as a substitute for codes of ethics of the various professional and technical societies.

B. All licensees under the licensure law are charged with having knowledge of the existence of these rules of professional conduct, and shall be deemed to be familiar with their provisions and to understand them.

C. In this Chapter, the term *licensee* shall mean any professional engineer, professional land surveyor, engineer intern, land surveyor intern, or firm holding a license or certificate issued by this board.

D. A licensee possessing personal knowledge of a violation of the licensure law or the board rules found in this Chapter shall report such knowledge to the board in writing and shall cooperate with the board in furnishing such further information or assistance as it may require. The licensee shall timely respond to all inquiries and correspondence from the board and shall timely claim correspondence from the U.S. Postal Service, or other delivery service, sent to the licensee, from the board.

*AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.*

*HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 4:299 (August 1978), amended LR 7:648 (December 1981), LR 16:776 (September 1990), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1036 (July 2001), LR 30:1720 (August 2004).*

### §2503. Licensees

A. Licensees shall hold paramount the safety, health, property and welfare of the public in the performance of their professional duties.

B. Licensees shall at all times recognize that their primary obligation is to protect the safety, health, property, and welfare of the public. If their professional judgment is overruled by nontechnical authority, they will clearly point out the consequences, notifying the proper authority of any observed conditions which endanger public safety, health, property and welfare.

C. Licensees shall approve and seal only those design documents and surveys which are safe for public health, property, and welfare, which are complete and accurate, which are in conformity with accepted engineering and land-surveying standards or practice, and which conform to applicable laws and ordinances.

1. Licensees shall comply fully with Chapter 27 (Use of Seals).

2. Except as permitted by §2701.A.3.b.ii.(a), licensees shall not seal the work of or take the professional responsibility for any documents related to engineering or land surveying not performed by the licensee or under the licensee's responsible charge.

3. Licensees may not accept the responsibility for, nor review, revise, sign, or seal drawings when such plans are begun by persons not properly licensed and qualified; or do any other act to enable either such licensees or the project owners, directly or indirectly, to evade the requirements of the licensure law.

D. Licensees shall submit to a client only that work (plans, specifications, reports, and other documents) prepared by the licensee or by an employee (or subordinate) of the licensee (which is under the licensee's responsible charge); however, licensees, as a third party, may complete, correct, revise, or add to the work of another licensee or other related design professional, if allowed by Louisiana statutes, when engaged to do so by a client, provided:

1. the client furnishes the documentation of all such work submitted to him by the previous licensee(s), or their related design professional(s);

2. the previous licensees or other related design professionals are notified in writing by the licensee of the engagement referred to herein immediately upon acceptance of the engagement; and

3. all work completed, corrected, revised, or added to shall contain a notation describing the work done by the licensee now in responsible charge, shall have the seal and signature of the licensee affixed thereto, the date of execution, and shall become the responsibility of the licensee.

E. Licensees shall be objective and truthful in all professional reports, statements or testimony. The licensee shall include all relevant and pertinent information in such reports, statements or testimony.

F. When serving as an expert or technical witness before any court, commission, or other tribunal, licensees shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of the licensee's testimony.

G. Licensees shall issue no statement, criticisms, or arguments on engineering or land surveying matters connected with public policy which are inspired or paid for by an interested party, or parties, unless the licensee has prefaced the comment by explicitly

identifying the licensee's name, by disclosing the identities of any party or parties on whose behalf the licensee is speaking, and by revealing the existence of any pecuniary interest the licensee may have in the instant matters.

H. Licensees shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another engineer or land surveyor, nor indiscriminately criticize another engineer or land surveyor's work in public. If the licensee believes that another engineer or land surveyor is guilty of misconduct or illegal practice, such information shall be presented to the board in a manner consistent with the requirement of those rules for reporting personal knowledge of rule or statute violations.

*AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.*

*HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended LR 11:950 (October 1985), LR 16:776 (September 1990), LR 17:273 (March 1991), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1037 (July 2001), LR 30:1721 (August 2004).*

## **§2505. Services**

A. Licensees shall perform services only in the area of their competence.

B. Licensees shall undertake assignments only when qualified by education or experience in the specific technical fields of engineering or land surveying involved.

C. Licensees shall not affix their signatures or seals to any plans or documents dealing with subject matters in which they lack competence, nor to any such plan or document not prepared under their responsible charge. Responsible charge 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. A licensee shall not contract with a non-licensed individual to provide these professional services. Research, such as title searches and soil testing, may be contracted to a non-licensed individual, provided the licensee reviews the work. The professional engineer and professional land surveyor may affix their seal, signature and date to drawings and documents depicting the work of two or more professionals provided that a note under the seal designates the specific subject matter for which each is responsible.

D. Licensees may accept an assignment outside of their areas of competence to the extent that their services are restricted to those phases of the project in which they are qualified, and to the extent that they are satisfied that all other phases of such project will be performed or supervised by licensed, qualified associates, consultants, or employees, in which case they may then seal, sign and date the documents for the total project.

E. In the event a question arises as to the competence of a licensee in a specific technical field which cannot be otherwise resolved to the board's satisfaction, the board, either upon request of the licensee or on its own volition, shall admit the licensee to an appropriate examination.

F. Firms may offer and/or provide a combination of engineering and construction services in connection with a design-build project without obtaining a firm license from the board, provided that:

1. prior to the execution of the contract for the project, the firm obtains an authorization certificate from the board by filing, on a form approved by the board, a written disclosure on which it shall designate a professional engineer (professional of record) licensed in this state to be in responsible charge of all engineering services offered and/or provided by the firm for such project;

2. the professional of record and an officer of the firm sign the written disclosure submitted to the board, identifying the professional of record's role in the project and certifying that the professional of record will be in responsible charge of all engineering services offered and/or provided by the firm for the project;

3. all engineering services offered and/or provided by the firm for the project are performed by or under the responsible charge of the professional of record; and

4. in the event such professional of record's services terminate with respect to the project or his role in the project otherwise changes, then within five business days:

a. both the firm and the professional of record shall notify the board in writing of such termination or change; and

b. the firm shall file with the board a new written disclosure designating a new professional of record employed by the firm and licensed in this state to be in responsible charge of all engineering services offered and/or provided by the firm for such project.

*AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.*

*HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1037 (July 2001), LR 30:1721 (August 2004), LR 32:1620 (September 2006), LR 33:2789 (December 2007), LR 35:2856 (December 2009).*

### **§2507. Conflicts of Interest**

A. Licensees shall further act in professional matters for each employer or client as faithful agents or trustees and shall avoid conflicts of interest.

B. Licensees shall disclose all known or potential conflicts of interest to their employers or clients by promptly informing them of any business association, interest, or other circumstances which could influence their professional judgment or the quality of their professional services.

C. Licensees shall not accept compensation, financial or otherwise, from more than one party for professional services on the same project, or for professional services pertaining to the same project, unless the circumstances are fully disclosed to, and agreed to, by all interested parties.

D. Licensees shall not solicit or accept, directly or indirectly, benefits of any substantial nature or significant gratuity, from any supplier of materials or equipment, or from contractors, their agents, servants or employees or from any other party dealing with the client or employer of the licensee in connection with any project on which the licensee is performing or has contracted to perform engineering or land surveying services.

E. When in public service as a member, advisor or employee of a governmental body or agency, or under contract to provide consultation, advice, technical reviews and recommendations to a governmental body or agency, licensees shall not participate in considerations or actions with respect to professional services provided by them or their organization to that governmental body or agency.

F. Licensees shall not solicit nor accept an engineering and/or land surveying contract from a governmental body of which a principal or officer of the licensee's firm serves as a member, except upon public disclosure of all pertinent facts and circumstances and consent of appropriate public authority.

G. Licensees shall not attempt to supplant another engineer or land surveyor in a particular engagement after becoming aware that the other has been selected for the engagement.

*AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.*

*HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1038 (July 2001), LR 30:1722 (August 2004).*

#### **§2509. Improper Solicitation**

A. Licensees shall avoid improper solicitation of professional employment or services.

B. Licensees shall not falsify or permit:

1. misrepresentation of the licensee or any associate's academic or professional qualifications;
2. misrepresentation or exaggeration of the licensees' degree of responsibility in or for the subject matter of prior assignments; or
3. misrepresentation of pertinent facts concerning employers, employees, associates or joint ventures, of the licensees' or their firm's past accomplishments, with the intent and purpose of enhancing their qualifications and their work.

C. Licensees shall not pay nor offer to pay, directly or indirectly, any commission, or gift, or other valuable consideration in order to secure work, except under the following circumstances:

1. securing salaried positions through employment agencies; or
2. as a bona fide employee, or a bona fide established commercial marketing agency retained by them.

*AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.*

*HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1038 (July 2001), LR 30:1722 (August 2004).*

## **§2511. Conduct of Advertising**

A. Licensees shall not make exaggerated, misleading, deceptive or false statements or claims about professional qualifications, experience or performance in brochures, correspondence, listings, or other public communications.

- B. The prohibitions listed in Subsection A include, but are not limited to:
1. the use of statements containing a material misrepresentation of fact;
  2. omitting a material fact necessary to keep the statement from being misleading;
  3. the use of statements intended or likely to create an unjustified expectation; and
  4. the use of statements containing a prediction of future success.

C. Consistent with the foregoing, licensees may advertise for recruitment of personnel.

D. Consistent with the foregoing, licensees may prepare articles for the lay or technical press. Such articles shall not imply credit to the author for work performed by others.

*AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.*

*HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1038 (July 2001), amended LR 30:1722 (August 2004).*

# Chapter 3

## LA Statues - Disciplinary Proceedings

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### Title 37, Chapter 8: Professional Engineering and Professional Surveying

*The following are excerpts from Chapter 8 of the Louisiana Revised Statutes as they relate to disciplinary and enforcement proceedings. If you wish to review the entire chapter, please visit the website of the Louisiana Board at:*

[http://www.lapels.com/docs/Laws\\_and\\_Rules/WebLaw\\_2012.pdf](http://www.lapels.com/docs/Laws_and_Rules/WebLaw_2012.pdf)

#### **37:698. Disciplinary proceedings against licensees and certificate holders; procedure**

A. The board shall have the power to take disciplinary action against any licensee or certificate holder found by the board to be guilty of any of the following acts or offenses:

(1) Any fraud, deceit, material misstatement, or perjury or the giving of any false or forged evidence in applying for a license or certificate, or in taking any examination, or in applying for any renewal license or certificate provided for in this Chapter.

(2) Any fraud, deceit, gross negligence, material misrepresentation, gross incompetence, or gross misconduct in the practice of engineering or land surveying.

(3) Conviction of a felony or of any crime of moral turpitude or entry of a plea of guilty or nolo contendere to a felony charge or to a crime of moral turpitude under the laws of the United States or any state, territory, or district of the United States.

(4) Conviction of any crime or entry of a plea of guilty or nolo contendere to any criminal charge an element of which is fraud or which arises out of such person's practice of engineering or land surveying.

(5) Conviction of any civil or criminal violation of, or entry of a plea of guilty or nolo contendere to any criminal charge under the Louisiana Campaign Finance Disclosure Act or any other campaign finance and/or practices laws of the state of Louisiana, the United States, or any state, territory, or district of the United States.

(6) Violation of any provision of this Chapter or any rules or regulations adopted and promulgated by the board.

(7) The refusal of the licensing authority of another state, territory, or district of the United States to issue or renew a license, permit, or certificate to practice engineering or land surveying, or the revocation, suspension, or any other disciplinary action imposed on a license, permit, or certificate issued by such licensing authority, on grounds other than nonpayment of a licensure fee, or a finding by such licensing authority that a person has engaged in the unlicensed practice of engineering or land surveying, provided that the reason for the action taken by the other licensing authority was recognized by the Louisiana board as a ground for disciplinary action at the time the action was taken.

(8) Providing false testimony before the board.

(9) Using a seal or stamp or engaging in any other act constituting the practice of engineering or land surveying, or violating any order or terms of probation imposed by the board, at a time when his license or certificate is suspended or revoked, or at a time when his license or certificate has been expired for more than ninety days, or at a time when he is in retired or inactive status as a board licensee.

(10) Failure to provide, within thirty calendar days of receipt of notice by certified mail, information or documents requested by the board relating to any alleged violation of this Chapter.

(11) The use of any advertising or solicitation which is false or misleading.

(12) Aiding or assisting another person in violating any provision of this Chapter or any rule or regulation adopted and promulgated by the board.

(13) Knowingly making or signing false statements, certificates, or affidavits in connection with the practice of engineering or land surveying.

(14) Declaration of insanity or incompetence by a court of competent jurisdiction.

(15) Presenting or attempting to use as one's own the license, certificate, seal, or stamp of another person.

(16) Using or attempting to use an expired, inactive, retired, or revoked license or certificate.

(17) Falsely impersonating any other licensee or certificate holder of like or different name.

(18) Practicing or offering to practice engineering or land surveying when not qualified.

(19) Violation of or noncompliance with any order, ruling, or decision of the board.

B. For purposes of this Chapter, the term "disciplinary action" shall include but not be limited to reprimand, probation, suspension, revocation of license or certificate, refusal to renew license or certificate, or fine in an amount not to exceed five thousand dollars per violation.

C. The board shall have the power to take disciplinary action against a firm if one or more of its officers, directors, managers, employees, agents, or representatives is found by the board to be guilty of any of the acts or offenses listed in Subsection A of this Section.

D. Charges may be preferred against any licensee or certificate holder in the following manner:

(1) A complaint review committee of the board, on its own initiative, may prefer charges against any licensee or certificate holder who commits or engages in any of the acts or offenses listed in Subsection A of this Section. Any decision to prefer charges shall be made by a minimum two-thirds vote of the board members serving on the complaint review committee.

(2) A complaint review committee of the board, on receipt of a complaint from any person, may prefer charges against any licensee or certificate holder who commits or engages in any of the acts or offenses listed in Subsection A of this Section. Such complaint shall be in writing, shall be sworn to by the person or persons making the complaint, and

shall be filed with the board. Any decision to prefer charges shall be made by a minimum two-thirds vote of the board members serving on the complaint review committee.

E. Within twenty days of the preferral of charges, the board shall mail a copy of said charges to the last known address of the licensee or certificate holder so charged.

F. In the event a complaint review committee of the board determines after investigation that charges so preferred are completely unfounded, more appropriately resolved outside the formal disciplinary proceedings, or not within the jurisdiction of the board, the committee shall so advise the charged party, in writing, of its determination and the charges shall be withdrawn. Otherwise, all charges shall be heard by the board or a hearing committee designated by the board within twelve months after the date on which they shall have been preferred. This twelve-month period may be extended with the consent of both the board and the charged party.

G. The date, time, and place for said hearing shall be fixed by the complaint review committee and a copy of the charges, together with a notice of the date, time, and place of the hearing, shall be personally served on or mailed to the last known address of the charged party, at least thirty days before the date fixed for hearing. At any hearing, the charged party shall have the right to appear in person, or by counsel, or both, to cross-examine witnesses in his defense, and to produce evidence, and witnesses in his defense. If the charged party fails or refuses to appear at the hearing, the board or the hearing committee may proceed to hear and determine the validity of the charges.

H. If, after such hearing, a majority of the entire board membership authorized to participate in the proceeding vote in favor of sustaining the charges, the board may take disciplinary action against the charged party. Any charges found by the board after a hearing to be unfounded shall be published in the official journal of the board, if requested in writing by the charged party.

I. A charged party aggrieved by any disciplinary action taken by the board may appeal therefrom, pursuant to the provisions of the Administrative Procedure Act.

J. In addition to any other action, the board may assess all reasonable costs incurred in connection with a disciplinary proceeding, including investigators', stenographers', and attorneys' fees in conjunction with any other disciplinary action taken. The assessment of costs may be considered disciplinary action.

K. All disciplinary actions taken shall be published on the official website and in the official journal of the board and may be released to other professional organizations relating to professional engineering and land surveying or to the news media.

L. The board may make informal disposition by consent order, agreement, settlement, or default of any disciplinary proceeding pending before it. Each such informal disposition shall have no force or effect unless ratified by the board at its next regular meeting. Consent orders may be considered disciplinary actions.

M. The board shall establish complaint review committees to investigate, mediate, or initiate disciplinary or legal proceedings on behalf of the board with respect to complaints or information received by the board alleging that a licensee or certificate holder committed or engaged in any of the acts or offenses listed in Subsection A of this Section. Complaint review committees shall consist of at least three members of the board. Other employees or representatives of the board may be on the committees to provide administrative assistance, background information, legal advice, or any other assistance the committees deem necessary but shall not be granted voting privileges.

N. The board, for reasons it may deem sufficient, may reissue or reinstate a license or certificate to any person whose license or certificate has been revoked, if a majority of the entire board membership authorized to participate in the proceeding vote in favor of such reissuance or reinstatement.

O. Repealed by Acts 2004, No. 442, §2.

*Acts 1980, No. 568, §1. Amended by Acts 1985, No. 580, §1; Acts 1987, No. 694, §1; Acts 1989, No. 149, §1; Acts 1993, No. 53, §1; Acts 1999, No. 329, §1; Acts 1999, No. 396, §1; Acts 2003, No. 279, §5; Acts 2004, No. 442, §1; Acts 2010, No. 252, §1.*

### **37:700. Enforcement proceedings against other persons; procedure**

A. The board shall have the power to take enforcement action against any non-licensee or non-certificate holder found by the board to be guilty of any of the following acts or offenses:

(1) Practicing or offering to practice engineering or land surveying in the state of Louisiana without being licensed in accordance with the provisions of this Chapter.

(2) Presenting or attempting to use as one's own the license, certificate, seal, or stamp of another person.

(3) Any fraud, deceit, material misstatement, or perjury or the giving of any false or forged evidence in applying for a license or certificate, or in taking any examination.

(4) Falsely impersonating any licensee or certificate holder of like or different name.

(5) Using or attempting to use an expired, inactive, retired, or revoked license or certificate.

(6) Using or attempting to use a seal or stamp which is deceptively similar to the seals or stamps authorized by the board for use by its licensees.

(7) The use by any person of the words "engineer" or "engineering" or "land surveyor" or "land surveying" or any modification or derivative thereof in its name or form of business or activity except as licensed under this Chapter or in the pursuit of activities exempted by this Chapter.

(8) Falsely claiming that a person is licensed under this Chapter.

(9) Violation of any provisions of this Chapter or any rules or regulations adopted and promulgated by the board.

(10) Violation of or noncompliance with any order, ruling, or decision of the board.

(11) Failure to provide, within thirty calendar days of receipt of notice by certified mail, information or documents requested by the board relating to any alleged violation of this Chapter.

B. For purposes of this Chapter, the term "enforcement action" shall include but not be limited to a fine in an amount not to exceed five thousand dollars per violation.

C. The board shall have the power to take enforcement action against a firm if one or more of its officers, directors, managers, employees, agents, or representatives is found by the board to be guilty of any of the acts or offenses listed in Subsection A of this Section.

D. Charges may be preferred against any non-licensee or non-certificate holder in the following manner:

(1) A complaint review committee of the board, on its own initiative, may prefer charges against any non-licensee or non-certificate holder who commits or engages in any of the acts or offenses listed in Subsection A of this Section. Any decision to prefer charges shall be made by a minimum two-thirds vote of the board members serving on the complaint review committee.

(2) A complaint review committee of the board, on receipt of a complaint from any person, may prefer charges against any non-licensee or non-certificate holder who commits or engages in any of the acts or offenses listed in Subsection A of this Section. Such complaint shall be in writing, shall be sworn to by the person or persons making the complaint, and shall be filed with the board. Any decision to prefer charges shall be made by a minimum two-thirds vote of the board members serving on the complaint review committee.

E. Within twenty days of the preferral of charges, the board shall mail a copy of said charges to the last known address of the non-licensee or non-certificate holder so charged.

F. In the event a complaint review committee of the board determines after investigation that the charges so preferred are completely unfounded, more appropriately resolved outside the formal enforcement proceedings, or not within the jurisdiction of the board, the committee shall so advise the charged party, in writing, of its determination and the charges shall be withdrawn. Otherwise, all charges shall be heard by the board or a hearing committee designated by the board within twelve months after the date on which they shall have been preferred. This twelve-month period may be extended with the consent of both the board and the charged party.

G. The date, time, and place for said hearing shall be fixed by the complaint review committee and a copy of the charges, together with a notice of the date, time, and place of the hearing, shall be personally served on or mailed to the last known address of the charged party, at least thirty days before the date fixed for hearing. At any hearing, the charged party shall have the right to appear in person, or by counsel, or both, to cross-examine witnesses in his defense, and to produce evidence and witnesses in his defense. If the charged party fails or refuses to appear at the hearing, the board or the hearing committee may proceed to hear and determine the validity of the charges.

H. If, after such hearing, a majority of the entire board membership authorized to participate in the proceeding vote in favor of sustaining the charges, the board may take enforcement action against the charged party. Any charges found by the board after a hearing to be unfounded shall be published in the official journal of the board, if requested in writing by the charged party.

I. A charged party aggrieved by any enforcement action taken by the board may appeal therefrom, pursuant to the provisions of the Administrative Procedure Act.

J. In addition to any other action, the board may assess all reasonable costs incurred in connection with an enforcement proceeding, including investigators', stenographers', and attorneys' fees in conjunction with any other enforcement action taken. The assessment of costs may be considered enforcement action.

K. All enforcement actions taken shall be published on the official website and in the official journal of the board and may be released to other professional organizations relating to professional engineering and land surveying or to the news media.

L. The board may make informal disposition by consent order, agreement, settlement, or default of any enforcement proceeding pending before it. Each such informal disposition shall have no force or effect unless ratified by the board at its next regular meeting. Consent orders may be considered enforcement actions.

M. The board shall establish complaint review committees to investigate, mediate, or initiate enforcement or legal proceedings on behalf of the board with respect to complaints or information received by the board alleging that a non-licensee or non-certificate holder committed or engaged in any of the acts or offenses listed in Subsection A of this Section. Complaint review committees shall consist of at least three members of the board. Other employees or representatives of the board may be on the committees to provide administrative assistance, background information, legal advice, or any other assistance the committees deem necessary but shall not be granted voting privileges.

N. Any individual non-licensee or non-certificate holder found by a district court to have committed any of the acts or offenses listed in Subsection A of this Section shall be guilty of a misdemeanor and shall, upon conviction, suffer imprisonment for a period not exceeding three months. This penalty shall be in addition to any other enforcement action taken by the board.

O. It shall be the duty of the attorney general, all district attorneys, and all duly constituted officers of the law of this state, or any political subdivision thereof, to enforce the provisions of this Chapter and to prosecute any persons violating same. The attorney general of this state, or his assistant, shall act as legal advisor to the board if the board requests such and render such legal assistance as may be deemed necessary by the board in carrying out the provisions of this Chapter, provided that this shall not relieve the local prosecuting officers of any of their duties under the law as such.

P. Repealed by Acts 2004, No. 442, §2.

Q. Alternatively, following an investigation of any complaint or information received by the board alleging that a non-licensee or non-certificate holder committed or engaged in any of the acts or offenses listed in Subsection A of this Section, and dependent upon the result of such investigation, a complaint review committee of the board may present its findings to the district attorney in whose district such act or offense has occurred and shall aid in the prosecution of the violator; or the board may, if it deems necessary, prosecute any violator directly and in its own name, in any district court of this state for such act or offense. Such action may be instituted by any member, attorney, employee, or agent of the board acting on behalf of the board.

*Acts 1980, No. 568, §1; Acts 1989, No. 149, §1; Acts 1993, No. 53, §1; Acts 1999, No. 396, §1; Acts 2003, No. 279, §5; Acts 2004, No. 442, §§1, 2; Acts 2010, No. 252, §1.*

# Chapter 4

## Ethical and Disciplinary Case Studies

As explained in Chapters 2 and 3, we, as Professional Engineers, are expected to take reasonable precautions or care in the practice of our engineering profession as we must hold paramount the safety, health and welfare of the public. So, what happens when we fall short of our professional responsibilities for which we were entrusted by the public when we earned our honorable title of "Professional Engineer"?

The following disciplinary cases were extracted from the website of the Louisiana Board Professional Engineering and Land Surveying Board. In selecting these cases, different scenarios of violations are depicted along with their corresponding final decisions issued by the Board.

### **CASE NO. 2015-012**

**VIOLATION:** *Unlicensed Practice of and/or Offering to Practice Engineering in LA*

**ACTION DATE:** *November 16, 2015*

#### **Case Review:**

An investigation was opened based upon the Board's receipt of information and documents which suggested that the Respondent may have engaged in the unlicensed practice of and/or offering to practice engineering in Louisiana. The investigation disclosed that (a) since at least November 2010 the Respondent has been representing himself on his LinkedIn page as the principal of an "Engineering" firm and in the Louisiana Civil Engineer magazine as a "PE" and associated with his "Engineering" firm, and (b) since at least 2010 the Respondent has been residing and conducting business in Louisiana.

#### **Board Decision:**

La. R.S. 37:681 and 37:700(A)(1) and (7) prohibit the practicing of and/or offering to practice engineering and the use of the words 'engineer', 'engineering' or any modification or derivative thereof in a person's name or form of business or activity in Louisiana without proper licensure. La. R.S. 37:700(A)(9), to wit LAC Title 46:LXI§2301 (C), require that a sole proprietorship be licensed with the Board as a professional engineering firm if it does not bear the full name of a professional engineer owner. La. R.S. 37:700(H) permits the Board to take enforcement action against persons who violate La. R.S. 37:681 and 37:700(A)(1), (7) and (9), to wit LAC Title 46:LXJ§2301 (C), upon a finding of guilt following the preferral of charges, notice and hearing and a majority vote of its entire membership authorized to participate in the proceeding. La. RS. 37:681, La. RS. 37:700(A)(1),(7) and (9), La. R.S. 37:700(H) and LAC Title 46:LXI§2301 (C) were in effect at all times material hereto.

The Respondent agreed to enter into a consent order with the Board whereby the Respondent agreed to:

- Pay a fine of \$1,000.00
- Pay administrative costs of \$586.53
- Cease and desist the use of the business name in Louisiana until such time as either the business is duly licensed by the Board as a professional engineering firm or the business name is changed to include Respondent's full name

**CASE NO. 2014-009**

**VIOLATION: Disciplinary Action by the Licensing Authority of another State**

**ACTION DATE: November 16, 2015**

#### **Case Review:**

An investigation was opened based upon the Board's receipt of information and documents which suggested that the Respondent may have been disciplined by the licensing authority of another state for matters recognized as grounds for disciplinary action in Louisiana. The investigation disclosed that the Kansas State Board of Technical Professions [hereinafter the "Kansas Board"] had taken disciplinary action against the Respondent for gross negligence, incompetency, misconduct or wanton disregard for the rights of others in the practice of engineering, by designing, preparing and sealing plans and specifications for the fire alarm systems in (i) a church building which contained 12 deviations from generally accepted engineering standards and practices and constituted a danger to the health, safety and welfare of the public, and (ii) a retail store building, which contained 9 deviations from generally accepted engineering standards and practices and constituted a danger to the health, safety and welfare of the public.

In a Final Order dated July 17, 2012 in connection with Case No. 12-06, the Kansas Board placed the Respondent on probation for a period of two years and assessed him with \$19,729.46 in fines and \$5,270.54 in fees and expenses.

#### **Board Decision:**

La. R.S. 37:698(A)(7) authorizes the Board to take disciplinary action against licensees who have been disciplined by the licensing authority of another state, territory or district of the United States for a matter recognized as a ground for disciplinary action in Louisiana at the time the action was taken. La. R.S. 37:698(A)(2) prohibits licensees from committing any fraud, deceit, gross negligence, material misrepresentation, gross incompetence or gross misconduct in the practice of engineering in Louisiana. La. R.S. 37:698(A)(6), to wit LAC Title 46:LXI§2503(C), requires licensees to approve and seal only those design documents which are safe for public health, property and welfare, which are complete and accurate, which are in conformity with accepted engineering standards or practice, and which conform to applicable laws and ordinances. La. R.S. 37:698(H) permits the Board to take disciplinary action against persons who violate La. R.S. 37:698(A)(7), upon a finding of guilt following the preferral of charges, notice and hearing and a majority vote of its entire membership authorized to participate in the proceeding. La. R.S. 37:698(A)(2), (6) and (7), La. R.S. 37:698(H) and LAC Title 46:LXI§2503(C) were in effect at all times material hereto.

The Respondent agreed to enter into a consent order with the Board whereby the Respondent agreed to:

- Have his professional engineer license placed on probation for five years and subject to permanent revocation if convicted while on probation
- Pay a fine of \$2000.00
- Pay administrative costs of \$1,172.11
- Complete the Board's online Louisiana Laws and Rules Quiz within 60 days
- Complete the Board's online Louisiana Professionalism and Ethics Quiz within 60 days

**CASE NO. 2013-107**

**VIOLATION:** *Falsification of Information on License Renewal Application*

**ACTION DATE:** *January 28, 2015*

**Case Review:**

An investigation was opened based upon the Board's receipt of information and documents which suggested that the Respondent may have been disciplined by the licensing authority of another state for matters recognized as grounds for disciplinary action in Louisiana. The investigation disclosed that the California Board for Professional Engineers, Land Surveyors and Geologists [hereinafter the "California Board"] had taken disciplinary action against the Respondent for (a) breach or violation of contract to provide professional engineering services on three projects, (b) failure to utilize a written contract on three projects, (c) negligence through breaching the standard of care for professional engineers by failing to use a written contract and by failing to perform the agreed upon services on three projects and (d) failure to use a written contract while contracting for professional land surveying services on one project. In a Decision dated May 25, 2012 and made effective June 29, 2012 in connection with Case No. 944-A, the California Board revoked the Respondent's California professional engineer license. On May 29, 2012, the California Board mailed its Decision to the Respondent's address of record by certified mail and first class regular mail. The certified mail envelope was returned to the California Board as unclaimed, but the first class regular mail envelope was not returned.

The investigation also disclosed that on August 6, 2012 the Respondent submitted online to the Board his 2012 Louisiana professional engineer license renewal invoice, confirming and certifying thereon that (a) since his previous renewal in 2010 he had not been subject to disciplinary action by the licensing authority in another jurisdiction, (b) all information provided in his renewal invoice was true and correct to the best of his knowledge, information and belief and (c) an omission or untrue response in his renewal invoice may constitute fraud, deceit, material misstatement, perjury or the giving of false or forged evidence under La. R.S. 37:698 and 37:700.

**Board Decision:**

La. R.S. 37:698(A)(7) authorizes the Board to take disciplinary action against licensees who have been disciplined by the licensing authority of another state, territory or district of the United States for a matter recognized as a ground for disciplinary action in Louisiana at the time the action was taken. La. R.S. 37:698(A)(2) prohibits licensees from committing any fraud, deceit, gross negligence, material misrepresentation, gross incompetence or gross

misconduct in the practice of engineering in Louisiana. La. R.S. 37:698(A)(1) prohibits licensees from committing any fraud, deceit, material misstatement or perjury, or the giving of any false or forged evidence, in applying for a renewal license with the Board. La. R.S. 37:698(H) permits the Board to take disciplinary action against persons who violate La. R.S. 37:698(A)(1), (2) and (7), upon a finding of guilt following the preferral of charges, notice and hearing and a majority vote of its entire membership authorized to participate in the proceeding. La. R.S. 37:698(A)(1), (2) and (7) and 37:698(H) were in effect at all times material hereto.

The Respondent agreed to enter into a consent order with the Board whereby the Respondent agreed to:

- Pay a fine of \$750.00
- Pay administrative costs of \$946.86
- Complete the Board's online Louisiana Laws and Rules Quiz within 60 days
- Complete the Board's online Louisiana Professionalism and Ethics Quiz within 60 days

# Appendix A

## References

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Louisiana Professional Engineering and Land Surveying Board  
<http://www.lapels.com/>

How to File an Affidavit of Complaint  
<http://www.lapels.com/Enforcement/Affidavit.pdf>

Louisiana Revised Statutes (LRS) 37:681 through 37:703, Professional Engineering and Surveying Laws  
[http://www.lapels.com/docs/Laws\\_and\\_Rules/WebLaw\\_2012.pdf](http://www.lapels.com/docs/Laws_and_Rules/WebLaw_2012.pdf)

Louisiana Administrative Code, Title 46, Part LXI, Professional Engineering and Surveying Rules  
[http://www.lapels.com/docs/Laws\\_and\\_Rules/Board\\_Rules\\_updated\\_082015.pdf](http://www.lapels.com/docs/Laws_and_Rules/Board_Rules_updated_082015.pdf)

Louisiana Board Disciplinary Actions  
[http://www.lapels.com/Disciplinary\\_Actions.html](http://www.lapels.com/Disciplinary_Actions.html)