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Engineering Ethics for Wisconsin Professional Engineers

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Chapter 1

Overview of Wisconsin Engineering Board Regulations

The Board

The Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors (Board) was established to regulate the practice, licensure and registration of architects, landscape architects, professional engineers, designers, and professional land surveyors in the State of Wisconsin in order to safeguard life, health and property and promote the general welfare. The Board reviews applications, administers examinations, licenses qualified applicants, and regulates the professional practice of licensees throughout the state. The Board has the power to adopt rules, set standards for licensure, and adopt mandatory standards of professional conduct and ethics.

The members of the Board are appointed by the Governor and confirmed by the Legislature to serve 4-year terms. The Board consists of 25 members: 3 architects, 3 landscape architects, 3 professional engineers, 3 designers, 3 professional land surveyors, and 10 public members.

The Board has the authority to implement provisions of the Wisconsin Administrative Code: Chapters A-E 1 to 13, "Rules of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors" and the Wisconsin Statutes, Chapter 443, "Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors".

The Department of Safety and Professional Services (Department) has the authority to promulgate rules defining uniform procedures to be used by the Department and the Board for receiving, filing and investigating complaints, for commencing disciplinary proceedings and for conducting hearings.

Wisconsin Administrative Code (Laws)

The Wisconsin Administrative Code is a collection of state laws organized by subject area into a code made up of chapters. Chapters A-E 1 to 13, "Rules of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors" were created by the Wisconsin General Assembly in the interest of public health and safety to regulate the practice of engineering in the State of Wisconsin. It was created by laws that adopt, amend, or repeal statutory material. The Wisconsin Administrative Code states the law followed by the history of the law which indicates when it was originally filed and subsequent effective dates of enactment.

Pertinent sections of Chapters A-E 1 to 13, which relate to the engineering laws or codes of professional conduct and responsibility, are presented in Chapter 2 below.

Wisconsin Statutes (Rules)

The Wisconsin Statutes are a compilation of the rules and regulations of the Wisconsin regulatory agencies and it is organized by chapters with each chapter number representing a department, commission, board or other agency. Chapter 443 of the regulations was created to regulate the practice of engineering in the State of Wisconsin. The Board regulations state the rule followed by the history of the rule which indicates when it was originally filed and its effective date, as well as the date on which any amendment or repeal was filed and its effective date.

Study Question 1:

List the two regulations that govern the practice of engineering in the State of Wisconsin.

Pertinent sections of Chapter 443, which relate to engineering rules and regulations of professional conduct and responsibility, are presented in Chapter 3 below.

Disciplinary Process

The Engineer Section of the Board is charged with the duty of issuing certificates of registration to those professional engineers it has determined to be qualified. It has also the authority and responsibility to revoke or suspend these certificates when licensees are convicted with charges of gross incompetence or professional misconduct.

Complaints may involve unethical conduct, incompetence, unlicensed practice, misrepresentation, plan stamping, or a number of other practice allegations. Monetary disputes or complaints alleging "non-performance" are usually deemed to be contractual matters over which the Board has no jurisdiction. The complaint must contain sufficient factual evidence to indicate a clear violation of the registration law.

Complaints are reviewed by the Engineer Section of the Board which may refer a complaint for investigation if more information is needed to make a determination with regard to a particular complaint. If the Engineer Section of the Board determines that a violation of the law has occurred, a hearing will be scheduled before the Board. A similar complaint process is in place for complaints related to unlicensed practice.

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

Chapter 2

WI Administrative Code - Professional Conduct

RULES OF THE EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS, PROFESSIONAL ENGINEERS, DESIGNERS AND PROFESSIONAL LAND SURVEYORS

The following are excerpts from Chapters A-E 1 to A-E 13 of the Wisconsin Administrative Code as they relate to professional conduct. If you wish to review the entire title, visit the website of the Wisconsin Board at:

http://drl.wi.gov/board_code_detail.asp?boardid=20&locid=0

Chapter A-E 8: PROFESSIONAL CONDUCT

A-E 8.01 Authority. The rules of conduct in this chapter are adopted under authority of ss. 15.08 (5) (b), 227.11 and ch. 443, Stats.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87.

A-E 8.02 Intent. The intent of the examining board in adopting this chapter is to establish rules of professional conduct for the professions of architecture, landscape architecture, professional engineering, designing and professional land surveying. A violation of any standard specified in this chapter may result in disciplinary action under ss. 443.11 to 443.13, Stats.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87; am. Register, June, 1995, No. 474, eff. 7-1-95; am. Register, February, 2000, No. 530, eff. 3-1-00; CR 15-036: am. Register January 2016 No. 721, eff. 2-1-16.

A-E 8.03 Definitions. In ch. 443, Stats., and chs. A-E 1 to 9:

(1) "Gross negligence in the practice of architecture, landscape architecture, professional engineering, designing or professional land surveying" means the performance of professional services by an architect, landscape architect, professional engineer, designer or professional land surveyor which does not comply with an acceptable standard of practice that has a significant relationship to the protection of health, safety or public welfare and is performed in a manner indicating that the professional knew or should have known, but acted with indifference to or disregard of, the accepted standard of practice.

(2) "Incompetency in the practice of architecture, landscape architecture, professional engineering, designing or land surveying" means conduct which demonstrates any of the following:

(a) Lack of ability or fitness to discharge the duty owed by an architect, landscape architect, professional engineer, designer or land surveyor to a client or employer or to the public.

(b) Lack of knowledge of the fundamental principles of the profession or an inability to apply fundamental principles of the profession.

(c) Failure to maintain competency in the current practices and methods applicable to the profession.

(3) "Misconduct in the practice of architecture, landscape architecture, professional engineering, designing or professional land surveying" means an act performed by an architect, landscape architect, professional engineer, designer or professional land surveyor in the course of the profession which jeopardizes the interest of the public, including any of the following:

(a) Violation of federal or state laws, local ordinances or administrative rules relating to the practice of architecture, landscape architecture, professional engineering, designing or professional land surveying.

(b) Preparation of deficient plans, drawings, maps, specifications or reports.

(c) Engaging in conduct which evidences a lack of trustworthiness to transact the business required by the profession.

(d) Misrepresentation of qualifications such as education, specialized training or experience.

(4) "Responsible supervision of construction" is defined in s. 443.01 (8), Stats.

(5) (a) "Supervision," "direct supervision," "responsible charge," and "direction and control," mean direct, personal, active supervision and control of the preparation of plans, drawings, documents, specifications, reports, maps, plats and charts.

(b) The terms in par. (a) include the following:

1. Selection or development of standards, methods and materials to be used.

2. Selection of alternatives to be investigated and the comparison of alternatives for the professional work.

3. Testing to evaluate materials or completed works, either in new or existing projects.

4. Knowledge of applicable codes and professional standards.

5. Knowledge of the technical capabilities of the personnel they rely upon to perform the professional work.

(c) The terms in par. (a) do not include the following:

1. Indirect or casual supervision.

2. Delegation of any decision requiring professional judgment.

3. Casual review or inspection of prepared plans, drawings, specifications, maps, plats, charts, reports or other documents.
4. Mere assumption by an architect, landscape architect, professional engineer, designer or professional land surveyor of responsibility for work without having control of the work.
5. Assuming charge, control or direct supervision of work in which the architect, landscape architect, professional engineer, designer or professional land surveyor does not have technical proficiency.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87; am. (intro.), (1), (2) (intro.), (a), (3) (intro.), (a), (5) (d) and (e), Register, June, 1995, No. 474, eff. 7-1-95; am. (2) (intro.) to (b), (3) (intro.) to (c), (5) (intro.) to (d), Register, January, 1999, No. 517, eff. 2-1-99; am. (1), (2) (intro.) and (a), (3) (intro.), (a), (5) (d) and (e), Register, February, 2000, No. 530, eff. 3-1-00: correction in (intro.) made under s. 13.93 (2m) (b) 7., Stats., Register December 2005 No. 600; CR 09-033: r. and recr. (5) Register December 2009 No. 648, eff. 1-1-10; CR 15-036: am. (1), (3) (intro.), (a), (5) (c) 4., 5. Register January 2016 No. 721, eff. 2-1-16.

A-E 8.04 Offers to perform services shall be truthful. When offering to perform professional services, an architect, landscape architect, professional engineer, designer or professional land surveyor:

- (1)** Shall accurately and truthfully represent to a prospective client or employer the capabilities and qualifications which the registrant or licensee has to perform the services to be rendered.
- (2)** Shall represent the costs and completion times of a proposed project to a client or prospective client as accurately and truthfully as is reasonably possible.
- (3)** May not offer to perform, nor perform, services which the registrant or licensee is not qualified to perform by education or experience without retaining the services of another who is qualified.
- (4)** May not use advertising or publicity which is fraudulent or deceptive.
- (5)** May not represent that he or she is engaged in a partnership or association with another unless there exists in fact a partnership or association.
- (6)** May not collect a fee for recommending the services of another unless written notice is first given to all parties concerned.
- (7)** May not practice under a firm name that misrepresents the identity of those practicing in the firm or misrepresents the type of services which the individuals, firm or partnership is authorized and qualified to perform.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87; am. (intro.), Register, June, 1995, No. 474, eff. 7-1-95; am. (1) to (6), Register, January, 1999, No. 517, eff. 2-1-99; am. (intro.), Register, February, 2000, No. 530, eff. 3-1-00; CR 15-036: am. (intro.), (1), (3) Register January 2016 No. 721, eff. 2-1-16.

A-E 8.05 Conflicts of interest.

(1) An architect, landscape architect, professional engineer, designer or professional land surveyor:

(a) Shall avoid conflicts of interest. If an unavoidable conflict of interest arises, the registrant or licensee shall immediately inform the client or employer of all the circumstances which may interfere with or impair the registrant's or licensee's obligation to provide professional services. Under these circumstances a registrant or licensee may not proceed to provide professional services without the full approval and consent of the client or employer.

(b) Shall notify the employer or client and withdraw from employment at any time if it becomes apparent that it is not possible to faithfully discharge the responsibilities and duties owed to the client or employer.

(c) May not agree to perform professional services for a client or employer if the registrant or licensee has a significant financial or other interest which would impair or interfere with the registrant's or licensee's responsibility to faithfully discharge professional services on behalf of the client or employer.

(d) May not accept payment from any party other than a client or employer for a particular project or may not have any direct or indirect financial interest in a service or phase of a service to be provided as part of a project unless the employer or client approves.

(e) May not solicit or accept anything of value from material or equipment suppliers in return for specifying or endorsing a product.

(f) May not violate the confidences of a client or employer, except as otherwise required by rules in this chapter.

(g) May not perform services for a client or employer while a full-time employee of another employer without notifying all parties concerned.

(2) Nothing in these rules limits a registrant's or a licensee's professional responsibility to an owner of a project when the registrant or licensee is employed by a person or firm under contract to construct and furnish design services for that project.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87; am. (1) (intro.), Register, June, 1995, No. 474, eff. 7-1-95; am. (1) (a) to (f), Register, January, 1999, No. 517, eff. 2-1-99; am. (1) (intro.), Register, February, 2000, No. 530, eff. 3-1-00; CR 15-036: am. (1) (intro.), (a), (c), (2) Register January 2016 No. 721, eff. 2-1-16; Correction under s. 35.17, Stats., in (1) (a), (c), (2) Register January 2016 No.721.

Study Question 2:

Is it appropriate for the licensee to accept gratuity from an equipment supplier for specifying the supplier's product?

A-E 8.06 Professional obligations. An architect, landscape architect, professional engineer, designer or professional land surveyor:

(1) Shall use reasonable care and competence in providing professional services.

(2) May not evade the professional or contractual responsibility which the registrant or licensee has to a client or employer.

(3) May not enter into an agreement which provides that a person not legally and actually qualified to perform professional services has control over the registrant's or licensee's judgment as related to public health, safety or welfare.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87; am. (intro.), Register, June, 1995, No. 474, eff. 7-1-95; am. (1) and (2), Register, January, 1999, No. 517, eff. 2-1-99; am. (intro.), Register, February, 2000, No. 530, eff. 3-1-00; CR 15-036: am. (intro.), (2), (3) Register January 2016 No. 721, eff. 2-1-16.

A-E 8.07 Unauthorized practice. An architect, landscape architect, professional engineer, designer, or professional land surveyor:

(1) Shall assist in enforcing laws which prohibit the unlicensed practice of architecture, landscape architecture, professional engineering, designing, and professional land surveying by reporting violations to the board.

(2) May not delegate professional responsibility to unlicensed persons and may not otherwise aid or abet the unlicensed practice of architecture, landscape architecture, professional engineering, designing, or professional land surveying.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87; am. Register, June, 1995, No. 474, eff. 7-1-95; am. (1), Register, January, 1999, No. 517, eff. 2-1-99; am. Register, February, 2000, No. 530, eff. 3-1-00; CR 12-039: am. (intro.), (1), (2) Register June 2014 No. 702, eff. 7-1-14; CR 15-036: am. (intro.), (1), (2) Register January 2016 No. 721, eff. 2-1-16.

A-E 8.08 Maintenance of professional standards. An architect, landscape architect, professional engineer, designer or professional land surveyor:

(1) Shall furnish the board with information indicating that any person or firm has violated provisions in ch. 443, Stats., rules in this chapter or other legal standards applicable to the profession.

(2) May not discuss with any individual board member any disciplinary matter under investigation or in hearing.

(3) Shall respond in a timely manner to a request by the board, a section of the board or the department for information in conjunction with an investigation of a complaint filed against a registrant or licensee. There is a rebuttable presumption that a registrant or licensee who takes longer than 30 days to respond to a request for information has not acted in a timely manner.

(4) Shall notify the department in writing if the registrant or licensee has been disciplined for unprofessional conduct in other states where the registrant or licensee holds a credential or has violated federal or state laws, local ordinances or administrative rules, not otherwise reportable under s. SPS 4.09 (2), which are

Study Question 3:

Does the licensee have to notify the Board of any person who violates the acts of Chapter 443?

Study Question 4:

If you violated the laws and rules of another state, do you need to notify the Wisconsin Board of such violation?

related to the practice of an architect, landscape architect, professional engineer, designer or professional land surveyor. The notification shall be submitted within 48 hours of the disciplinary finding or violation of law and shall include copies of the findings, judgments and orders so that the department may determine whether the circumstances are substantially related to the practice of the registrant or licensee.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87; am. (intro.), Register, June, 1995, No. 474, eff. 7-1-95; am. (1), Register, January, 1999, No. 517, eff. 2-1-99; am. (intro.), Register, February, 2000, No. 530, eff. 3-1-00; CR 09-034: cr. (3) and (4) Register December 2009 No. 648, eff. 1-1-10; correction in (4) made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671; CR 15-036: am. (intro.), (3), (4) Register January 2016 No. 721, eff. 2-1-16.

A-E 8.09 Adherence to statutes and rules. An architect, landscape architect, professional engineer, designer or professional land surveyor:

(1) Shall comply with the requirements in ch. 443, Stats., rules in this chapter and all other federal, state and local codes which relate to the practice of architecture, landscape architecture, professional engineering, designing and professional land surveying.

(2) May not engage in conduct that may adversely affect his or her fitness to practice architecture, landscape architecture, professional engineering, designing or professional land surveying.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87; am. Register, June, 1995, No. 474, eff. 7-1-95; am. (1), Register, January, 1999, No. 517, eff. 2-1-99; am. Register, February, 2000, No. 530, eff. 3-1-00; CR 15-036: am. (intro.), (1), (2) Register January 2016 No. 721, eff. 2-1-16.

A-E 8.10 Plan stamping.

(1) No architect, landscape architect, professional engineer or designer may sign, seal or stamp any plans, drawings, documents, specifications or reports for architectural, landscape architectural, professional engineering or design practice which are not prepared by the registrant or under his or her personal direction and control.

(2) No professional land surveyor may sign, seal or stamp any maps, plats, charts, or reports for professional land surveying practice which are not prepared by the professional land surveyor or under his or her personal direction and control.

(3) No architect, landscape architect, professional engineer, designer or professional land surveyor shall allow work performed by him or her or under his or her personal direction and control to be signed, sealed or stamped by another except that an architect, landscape architect, professional engineer, designer or professional land surveyor working under the personal direction and control of another registrant or licensee may allow that registrant or licensee to sign and seal or stamp the work.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87; am. (1) and (3), Register, June, 1995, No. 474, eff. 7-1-95; am. (1) and (3), Register, February, 2000, No. 530, eff. 3-1-00; CR 15-036: am. (2), (3) Register January 2016 No. 721, eff. 2-1-16.

A-E 8.11 Suspension of registration; effect. Any registrant or licensee whose registration or license has been suspended is prohibited during the term of the suspension from engaging in any of the following:

- (1)** Offering to perform any service which requires registration or licensure.
- (2)** Performing any professional service which requires registration or licensure.
- (3)** Signing or sealing plans, specifications, reports, maps, plats, or charts prepared for the practice of architecture, landscape architecture, professional engineering, designing or professional land surveying.
- (4)** Entering into contracts the performance of which require registration or licensure.
- (5)** Engaging in responsible supervision of construction as defined in s. 443.01 (8), Stats.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87; am. (3), Register, June, 1995, No. 474, eff. 7-1-95; am. (intro.) to (4), Register, January, 1999, No. 517, eff. 2-1-99; am. (3), Register, February, 2000, No. 530, eff. 3-1-00; CR 15-036: am. (intro.), (1), (2), (3), (4) Register January 2016 No. 721, eff. 2-1-16.

Chapter 3

WI Statutes - Disciplinary Measures; Penalties

CHAPTER 443:

EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS, PROFESSIONAL ENGINEERS, DESIGNERS AND PROFESSIONAL LAND SURVEYORS

The following are excerpts from Chapter 443 of the Wisconsin Statutes as they relate to disciplinary measures and penalties. If you wish to review the entire chapter, please visit the website of the Wisconsin Board at:

<https://docs.legis.wisconsin.gov/statutes/statutes>

443.11 Disciplinary proceedings against architects, landscape architects and engineers.

(1) The appropriate section of the examining board may reprimand an architect, landscape architect, or professional engineer or limit, suspend, or revoke the certificate of registration of any registrant, and the certificate of record of any engineer-in-training, who is found guilty of:

(a) Fraud or deceit in obtaining a certificate of registration or a certificate of record.

(b) Signing or impressing his or her seal or stamp upon documents not prepared by him or her or under his or her control or knowingly permitting his or her seal or stamp to be used by any other person.

(c) Knowingly aiding or abetting the unauthorized practice of architecture or professional engineering by persons not registered under this chapter.

(d) Any gross negligence, incompetency or misconduct in the practice of architecture as a registered architect, of landscape architecture as a registered landscape architect or of professional engineering as a registered professional engineer, or in the professional activity of a holder of a certificate of record as engineer-in-training.

(e) Any violation of the rules of professional conduct adopted and promulgated by that section of the examining board.

(f) Conviction of a felony, subject to ss. 111.321, 111.322 and 111.335, or adjudication of mental incompetency by a court of competent jurisdiction, a certified copy of the record of conviction or adjudication of incompetency to be conclusive evidence of such conviction or incompetency.

(2) The appropriate section of the examining board may reprimand a firm, partnership, or corporation holding a certificate of authorization issued under this chapter or may limit, suspend, or revoke such a certificate if any of the agents, employees, or officers of the firm, partnership, or corporation has committed any act or has been guilty of any conduct which would authorize a reprimand or a limitation, suspension, or revocation of the certificate of registration of a registrant or the certificate of record of an engineer-in-training under this chapter, unless the firm, partnership, or corporation submits evidence satisfactory to the appropriate section of the examining board that the agent, employee, or officer is not now practicing or offering to practice architecture, landscape architecture, or professional engineering in its behalf.

(3) Any person may make charges that any registrant, holder of a certificate of record as engineer-in-training or corporate holder of a certificate of authorization has committed an act for which a reprimand or limitation, suspension, or revocation of registration is authorized under sub. (1). Such charges shall be in writing, shall be sworn to by the person making them and shall be submitted to the appropriate section of the examining board. The appropriate section of the examining board may, on its own motion, make such charges. All charges, unless dismissed by the appropriate section of the examining board as unfounded or trivial, shall be heard by the appropriate section of the examining board, subject to the rules promulgated under s. 440.03 (1).

(4) If after a hearing under sub. (3), 3 members of a section of the examining board vote in favor of sustaining charges specified in sub. (3), the appropriate section of the examining board shall reprimand or limit, suspend, or revoke the certificate of registration of the registered architect, registered landscape architect, or registered professional engineer, the certificate of record of the holder of a certificate as engineer-in-training, or the certificate of authorization of a firm, partnership, or corporation.

(5) The actions of each section of the examining board under this section shall be subject to review in the manner provided in ch. 227.

(6) The appropriate section of the examining board, for reasons it considers sufficient, may reissue a certificate of registration or a certificate of record to any person, or a certificate of authorization to any firm, partnership, or corporation, whose certificate has been revoked under this section if 3 members of the section of the examining board vote in favor of such reissuance. Subject to the rules of the examining board, the appropriate section of the examining board may, upon payment of the required fee, issue a new certificate of registration, certificate of record or certificate of authorization, to replace any certificate that is revoked, lost, destroyed or mutilated.

History: 1979 c. 167; 1981 c. 334 s. 25 (1); 1993 a. 463, 465, 491; 1997 a. 237, 300; 1999 a. 32, 186; 2009 a. 123; 2011 a. 146.

443.18 Penalties; law enforcement.

(1) UNAUTHORIZED PRACTICE; PENALTY.

(a) Any person who practices or offers to practice architecture, landscape architecture, or professional engineering in this state, or who uses the term "architect," "landscape architect," or "professional engineer" as part of the person's business name or title, except as provided in s. 443.08 (6), or in any way

Study Question 5:

What is the range of penalties can the Board serve you with if you were found in violation of the provisions of Section 443.18?

represents himself or herself as an architect, landscape architect, or a professional engineer unless the person is registered or exempted in accordance with this chapter, or unless the person is the holder of an unexpired permit issued under s. 443.10 (1) (d), or any person presenting or attempting to use as his or her own the certificate of registration of another, or any person who gives any false or forged evidence of any kind to the examining board or to any section of the examining board or to any member of the examining board or to any member of any section of the examining board in obtaining a certificate of registration, or any person who falsely impersonates any other registrant of like or different name, or any person who attempts to use an expired or revoked certificate of registration, or violates any of the provisions of this section, may be fined not less than \$100 nor more than \$500 or imprisoned for not more than 3 months or both.

(b) All duly constituted officers of the law of this state or any political subdivision shall enforce this chapter and prosecute any persons violating this chapter.

(2) INJUNCTION.

(a) If it appears upon complaint to the examining board or to any section of the examining board by any person, or is known to the examining board or to any section of the examining board that any person who is neither registered nor exempt under this chapter nor the holder of an unexpired permit under s. 443.10 (1) (d) is practicing or offering to practice, or is about to practice or to offer to practice, architecture, landscape architecture, or professional engineering in this state, the appropriate section of the examining board or the attorney general or the district attorney of the proper county may investigate and may, in addition to any other remedies, bring action in the name and on behalf of this state against any such person to enjoin the person from practicing or offering to practice architecture, landscape architecture, or professional engineering.

(b) If it appears upon complaint to the examining board by any person, or is known to the examining board that any person who does not have a license to engage in the practice of professional land surveying in this state, or who is not exempt or excepted from the licensure requirements under this chapter, is engaging in or offering to engage in the practice of professional land surveying in this state, the professional land surveyor section, the examining board, the department, the department of justice, or the district attorney of the proper county may investigate and may, in addition to any other remedies, bring action in the name and on behalf of the state to enjoin the person from engaging in or offering to engage in the practice of professional land surveying.

(3) PENALTIES; LAW ENFORCEMENT.

Any person who violates this chapter shall be fined not more than \$500 or imprisoned not more than 3 months or both.

History: 1979 c. 167 ss. 27, 28, 45, 46; 1981 c. 20; 1993 a. 463, 465, 491; 1997 a. 300; 1995 a. 85; 2009 a. 123; 2011 a. 146; 2013 a. 358.

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 randomly extracted from the Disciplinary Actions web page of the Wisconsin Board. In selecting these cases, different scenarios of violations are depicted along with their corresponding final decisions issued by the Wisconsin Engineer Section of the Board over the preceding two years.

CASE NO. 19 ENG 014

ACTION DATE: July 23, 2020

Findings of Fact

In 2014, the Louisiana professional Engineering and Land Surveying Board (Louisiana Board) disciplined the Respondent for working on 38 engineering projects while its Louisiana Certificate of Authorization (COA) was expired. In 2019, the Respondent completed a Wisconsin COA application and failed to report any disciplinary actions taken against his firm. Later, the Respondent also admitted that he had completed seven plans for sites in Wisconsin before being licensed there.

Conclusions of Law

By the conduct described in the Findings of Fact, it was determined that the Respondent:

1. Violated Wis. Admin. Code § A-E 8.08(4) by failing to notify the Department within 48 hours of being disciplined for unprofessional conduct in another state.
2. Violated Wis. Admin. Code § A-E 8.09(1) by failing to comply with all state codes which relate to the practice of professional engineering.
3. Engaged in misconduct pursuant to Wis. Admin. Code § A-E 8.03(3)(a) by violating federal or state laws, local ordinances or administrative rules relating to the practice of professional engineering.

Final Order

The Respondent and the associated firm are reprimanded and are both ordered to pay \$398.00 within 90 days from the date of this order.

CASE NO. 16 ENG 011

ACTION DATE: April 22, 2020

Findings of Fact

In 2016, the Department received a complaint against the Respondent for using drawings that was not theirs without compensating the complainant's company for the work performed. It was found that the Respondent stamped and submitted architectural drawings without possessing an architect license. In 2019, the Respondent, who was the responsible licensed professional for a project subject to a complaint, pled guilty to 3 felony counts of theft by contractor.

Conclusions of Law

By the conduct described in the Findings of Fact, it was determined that the Respondent:

1. Violated Wis. Admin. Code § A-E 8.06(1) by failing to use reasonable care and competence in providing professional engineering services.
2. Violated Wis. Admin. Code § A-E 8.04(3) by offering to perform, or performing, professional engineering services which he was not qualified to perform by education or experience without retaining the services of another who is qualified.
3. Violated Wis. Admin. Code § A-E 8.09(2) by engaging in conduct that adversely affected his fitness to practice professional engineering.
4. Engaged in misconduct pursuant to Wis. Admin Code § A-E 8.03(1) by performing professional engineer services which do not comply with an acceptable standard of practice that has a significant relationship to the protection of health, safety or public welfare and is performed in a manner indicating that he knew or should have known, but acted with indifference to or disregard of, the accepted standard of practice.
5. Engaged in misconduct pursuant to Wis. Admin. Code § A-E 8.03(3)(a) by engaging in conduct which evidences a lack of trustworthiness to transact the business required by the profession.

Final Order

The Respondent agreed upon the voluntary surrender of his Professional Engineer certificate of registration, and the engineering firm's certificate of authorization. Also, the Respondent's future applications will not be considered and the Respondent will not be able to practice the profession of engineering in the state of Wisconsin.

CASE NO. 19 ENG 005

ACTION DATE: October 7, 2020

Findings of Fact

The Respondent admitted that the company for which he is identified as the responsible engineer had conducted 9 projects involving engineering in the state of Wisconsin prior to the certificate of authorization being issued.

Conclusions of Law

By the conduct described in the Findings of Fact, it was determined that the Respondent:

1. Violated Wis. Stat. § 443.08(2)(b)2. by practicing or offering to practice professional engineering as a principal, officer, employee, or agent of a firm, partnership, or corporation prior to the firm, partnership, or corporation being issued a certificate of authorization.
2. Violated Wis. Admin. Code § A-E 8.09(1) by failing to comply with the requirements in Ch. 443, stats., rules in this chapter and all other federal, state and local codes which relate to the practice of professional engineering.
3. Engaged in misconduct pursuant to Wis. Admin. Code § A-E 8.03(3)(a) by violating federal or state laws, local ordinances or administrative rules relating to the practice of professional engineering.

Final Order

The Respondent is reprimanded and shall pay costs of this matter in the amount of \$935.00 within 90 days from the date of this order.

Appendix A

Answers to Study Questions

Study Question 1:

List the regulations that govern the practice of engineering in the state of Wisconsin:

- Chapters A-E 1 to A-E 13: Wisconsin Administrative Code
- Chapter 443: Wisconsin Statutes

Study Question 2:

Is it appropriate for the licensee to accept gratuity from an equipment supplier for specifying the supplier's product?

No. "An architect, landscape architect, professional engineer, designer or land surveyor.....may not solicit or accept anything of value from material or equipment suppliers in return for specifying or endorsing a product."

Study Question 3:

Does the licensee have to notify the Board of any person who violates the acts of Chapter 443?

Yes. "An architect, landscape architect, professional engineer, designer or land surveyor..... shall furnish the board with information indicating that any person or firm has violated provisions in ch. 443, Stats., rules in this chapter or other legal standards applicable to the profession."

Study Question 4:

If you violated the laws and rules of another state, do you need to notify the Wisconsin Board of such violation?

Yes. "An architect, landscape architect, professional engineer, designer or land surveyor.....shall notify the department in writing if the registrant has been disciplined for unprofessional conduct in other states where the registrant holds a credential or has violated federal or state laws, local ordinances or administrative rules, not otherwise reportable under s. SPS 4.09 (2), which are related to the practice of an architect, landscape architect, professional engineer, designer or land surveyor."

Study Question 5:

What is the range of penalties can the Board serve you with if you were found in violation of Section 443.18?

“Any person found in violation of Section 443.18.....may be fined not less than \$100 nor more than \$500 or imprisoned for not more than 3 months or both.”

Appendix B

References

Wisconsin Board of Architects, Landscape Architects, Professional Engineers, Designers and Professional Land Surveyors

<http://dsps.wi.gov/Licenses-Permits/Engineer>

Wisconsin Administrative Code, Chapters A-E 1 to A-E 13 (Laws)

https://docs.legis.wisconsin.gov/code/admin_code/a_e/8.pdf

Wisconsin Statutes, Chapter 443 (Rules)

<https://docs.legis.wisconsin.gov/statutes/statutes/443.pdf>

Wisconsin Board Disciplinary Actions

<https://online.drl.wi.gov/orders/searchorders.aspx>