



PE/PS Newsletter 09/2001

OHIO'S STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND SURVEYORS

Board's Mission, Goal and Procedures

The Mission of Ohio's State Board of Registration for Professional Engineers and Surveyors is to oversee the profession of engineering and surveying by providing for initial registration and licensure renewals for Professional Engineers, Professional Surveyors and companies which perform professional engineering and/or professional surveying services. In addition to providing for registration, the Board also enforces its

registration act (R.C. Chapter 4733) and its administrative rules (A.C. Chapter 4733) in order to ensure that registrants comply with accepted standards and the code of ethics in order to protect the health, safety and welfare of the public. The Board meets approximately eight times each year to consider policy and enforcement issues. The Board has a full time staff of seven who implement Board-established policies.

We regularly review R.C. Chapter 4733 and A.C. Chapter 4733 to ensure protection of the public.

We maintain registration records for more than 35,000 current registrants.

We evaluate education and experience credentials of nearly 4,000 comity and examination applicants each year.

We administer nearly 2,500 examinations a year which are given each April and October. The examinations are uniform across the nation and are prepared and graded by the National Council of Examiners for Engineering and Surveying (<http://www.ncees.org>).

We operate a sophisticated database in order to process and maintain all necessary records in order to facilitate efficient retrieval of data by the staff as needed by those we serve.

We provide information to registrants, professional societies, students, faculty and the general public using our website (<http://www.peps.state.oh.us>), press releases, this newsletter and personal appearances.

CERTIFICATE OF AUTHORIZATION

New 'C of A' Law Effective October 8

On June 28, 2001 Substitute Senate Bill 77 was passed by the Legislature. The bill has been signed by Governor Taft and become effective on October 8, 2001.

S.B. 77, sponsored by Senator Kevin Coughlin, was requested by the Board and supported by the Consulting Engineers Council of Ohio (CECO), the Ohio Society of Professional Engineers (OSPE) and the Professional Land Surveyors of Ohio (PLSO).

The bill brings Ohio's law, relative to the requirements for obtaining a Certificate of Authorization, into accord with the NCEES Model Law and the laws of approximately 46 of the 50 states.

The new law deletes previous requirements for majority ownership by Ohio registrants but retains a requirement that a director, manager, partner, etc. who is a registered PE or PS in Ohio be designated as in responsible charge of engineering or surveying activities for the company.

The previous requirements were among the strictest in the country and overly burdensome without any demonstrable benefit to the public. In addition, the previous requirements were also an impediment to mobility of engineering and/or surveying firms that wanted to perform services for Ohio projects and was problematic for companies planning ownership transitions.

Our Goal is to accomplish our mission in the most complete and efficient manner in order to offer the maximum protection to the public and to provide quality services to our registrants and the general public.

Standard Procedures are used to efficiently license *only* those individuals and companies which meet the legal requirements for registration.



Verne Riffe Center for Government and the Arts
The Board's office is on the 16th floor

CONTINUING PROFESSIONAL DEVELOPMENT

Board Affirms Support for CPD

At its July 11, 2001 meeting the Board affirmed its support for future legislation (likely in the 125th General Assembly during 2003-2004) to require evidence of Continuing Professional Development as a condition of registration renewal for Ohio PEs and PSs. The requirements would be modeled after the NCEES Model Law which requires 15 professional development hours per year for a PE, PS or dual registration. The Board will be discussing the proposed legislation with CECO, OSPE, CEO and PLSO during the next year as the legislation will require active support of statewide engineering and surveying associations in order to be successful.

DON'T FORGET TO RENEW YOUR REGISTRATION ANNUALLY BY DECEMBER 31!

Filing a Complaint with the Board

The State Board of Registration for Professional Engineers and Surveyors is charged with administering Sections 4733.01 to 4733.23 of the Ohio Revised Code. In addition to evaluating candidates for registration and administering examinations, the Board investigates alleged violations of Ohio's registration law.

Basic information

Although the Board does not represent individuals who file complaints, the Board will review complaints in a timely manner to make sure that a complaint is processed and that the Board will take appropriate action. Violations of the registration law may include:

- Illegal practice of engineering or surveying
- Aiding and abetting the illegal practice of engineering or surveying
- Offering engineering or surveying services without a certificate of authorization
- Plan stamping
- Code of ethics violations
- Violations of the minimum standards for

- boundary surveys or mortgage surveys
- Other violations of the Board's registration laws or rules

Matters such as boundary disputes and failure to fulfill contractual obligations are not within the jurisdiction of the Board and require legal resolution. Likewise, the Board has no power to order restitution and does not establish or review costs for professional services. If wrongdoing by a registrant is proven in court, send the Board a certified copy of the order issued by the court.

How to file a complaint

Any person may file a complaint. The Board policy is that all complaints must be made in writing and should contain sufficient factual evidence to indicate a clear violation of the registration law. Include with the complaint as much factual evidence as possible, including copies of plans, plats, pictures, maps, documents, contracts and the names, addresses and phone numbers of potential witnesses. Any documents received will not be returned.

Most documents received by our office are public records and subject to Ohio's Public Records Act. This law requires nearly all public

records to be available for inspection by anyone, upon request.

Complaints can be mailed or delivered to:
John F. Greenhalge
Board Investigator
Ohio Engineers and Surveyors Board
77 South High Street, Room 1698
Columbus, Ohio 43215

What happens after a complaint is received?

After you file a complaint you will receive written confirmation from the Board that your complaint was received. The complaint is reviewed by the Board's enforcement staff to determine if further investigation is required.

The respondent is often sent a copy of the complaint and given 20 days to respond to the allegation. If the respondent is unwilling to cooperate or the allegation requires the Board's attention, the complaint is presented to the Board and a formal investigation is opened.

Once a formal investigation is opened, the enforcement staff proceeds to gather all relevant information and conduct interviews of the witnesses. When the investigation is completed, the enforcement staff reviews the data to determine if charges should be filed with the Board's Secretary.

If charges are filed, the Board reviews the charge and may prefer formal charges against the respondent and issue the charge and a Notice of Opportunity for Hearing. If a hearing is not requested, the Board reviews the evidence and decides on an appropriate disciplinary action and issues a Final Order.

If a hearing is requested, a hearing is scheduled before a Hearing Officer. After hearing the evidence the Hearing Officer issues a Report and Recommendations to the Board. The Board reviews the Hearing Officer's Report and Recommendations and either accepts, rejects or modifies the Report and Recommendations. The Board then decides on the appropriate disciplinary action and issues a Final Order.

Disciplinary action taken against registrants may include:

- Settlement Agreement
- Reprimand
- Probation
- Limitation on registration
- Suspension
- Revocation

The Board's Final Orders can be appealed to the Court of Common Pleas and subsequent appeals can be made to the Court of Appeals and the Ohio Supreme Court.

The Board does not have jurisdiction over unlicensed persons practicing engineering or surveying, and therefore cannot take disciplinary action against them. However, after an investigation, the Board may seek a settlement agreement, an injunction or criminal prosecution to prohibit further unlicensed activity.

General Procedure for Complaints and Investigations

1. Written complaint arrives at Board office.
2. Complaint is reviewed by enforcement staff.
 - a. Is the "problem" within our jurisdiction? If not, so advise the person(s) who filed the complain.
 - b. If an obvious violation of R.C. 4733 or A.C. 4733, issue a "Notice of Apparent Violation" which requires a written response.
 - c. If the SUBJECT is willing to acknowledge the problem and agree to correct the problem, prepare a settlement agreement for signature by the SUBJECT and subsequent acceptance by the Board.
 - d. If the SUBJECT is not willing to cooperate or if the problem is serious, present the information to the Board and recommend opening an investigation.
3. Board reviews and decides whether to open an investigation.
4. If an investigation is opened, the enforcement staff proceeds to gather all available information and conduct all necessary interviews of witnesses, SUBJECT, etc.
5. After the investigation is completed, the enforcement staff reviews the data to decide if charges should be filed by the Investigator to the Board Secretary.
6. The Board reviews the charge by

the Investigator and may, if it deems appropriate, prefer formal charges against the Respondent and issue the charges and a Notice of Opportunity for Hearing to the Respondent, who has 30 days in which to request a hearing.

7. If a hearing is **not** requested (within 30 days), the Board deliberates, decides upon the appropriate discipline, and issues a Final Order to the Respondent. The Respondent then has 15 days in which to file an appeal with the Court of Common Pleas in the country where he or she resides.

8. If a hearing **is** requested (within 30 days), a hearing is scheduled (before a Hearing Officer) and a Hearing Notice is sent to Respondent.

9. Subsequent to the hearing, the Hearing Officer issues a "Report and Recommendations" to the Board for its review.

10. The Board reviews the "R&R" and either accepts, rejects, or modified the "R&R", decides upon the appropriate discipline, and issues a Final Order. The Respondent then has 15 days in which to file an appeal with the Court of Common Pleas.

11. Either the Board or the Respondent may subsequently make further appeals to the Court of Appeals and the Ohio Supreme Court.

2000-2001 Board Disciplinary Actions

SEPTEMBER 2000

Ronald M. Merckle, P.E., P.S.
Moxahala, Ohio

Violation: Convicted of 31 felony counts for filing false statements pursuant to the Clean Water Act in violation of ORC 4733.20 (A) (4) and OAC 4733-5-03 (A) (4).

Action: P.E. and P.S. registrations revoked.

Howard B. Stitt, III, P.E., P.S.
Cadiz, Ohio

Violation: Convicted of theft in office, a felony in violation of ORC 4733.20 (A) (4) and OAC 4733-5-03 (A) (4).

Action: P.E. and P.S. registrations suspended from October 6, 2000 to January 6, 2002.

John H. Corak
East Liverpool, Ohio

Violation: Practicing or offering to practice engineering in violation of ORC 4733.02 and 4733.22.

Action: Settlement Agreement to cease and desist.

Gearld R. Payne
South Point, Ohio

Violation: Practicing or offering to practice engineering in violation of ORC 4733.02 and 4733.22.

Action: Settlement Agreement to cease and desist.

Ali A. Saleh, P.E.
Cincinnati, Ohio

Violation: Convicted of one felony count of bank fraud [ORC 4733.20 (A) (4) and OAC 4733-5-03 (A) (4)].

Action: P.E. registration suspended for 30 days; 5 years probation.

Richard B. Klein, P.E.
Delray Beach, Florida

Violation: P.E. registration was suspended in Tennessee and voluntarily relinquished in Florida [ORC 4733.20 (A) (5) and OAC 4733-35-08].

Action: Settlement Agreement suspending P.E. registration for 10 years.

The TCW Company
New Lexington, Ohio

Violation: Convicted of one felony count for violating the Clean Water Act [ORC 4733.20 (A) (4) and OAC 4733-5-03 (A) (4)].

Action: Settlement Agreement wherein certificate of authorization will not be renewed.

NOVEMBER 2000

George M. Armstrong, P.E., P.S.
Cincinnati, Ohio

Violation: Aiding and abetting the unlicensed practice of engineering [ORC 4733.20 (A) (3)].

Action: Settlement Agreement to cease and desist; formal reprimand.

JANUARY 2001

Clarence H. Keim III
Development Consulting Inc.
Akron, Ohio

Violation: Practicing or offering to practice engineering in violation of ORC 4733.02 and 4733.22. Corporation practicing or offering to practice engineering without a certificate of authorization in violation of ORC 4733.16.

Action: Settlement Agreement to cease and desist.

Eugene Matho
Harrison, Ohio

Violation: Practicing or offering to practice engineering in violation of ORC 4733.02 and 4733.22.

Action: Settlement Agreement to cease and desist.

Banwo Longe, P.E.
Columbus, Ohio

Violation: Practicing or offering to practice engineering after failing to renew registration [ORC 4733.02 and 4733.22].

Action: Settlement Agreement postponing reinstatement until March 1, 2001.

MARCH 2001

Douglas P. Martin, P.S.
Sylvania, Ohio

Violation: Practicing or offering to practice engineering in violation of ORC 4733.02 and 4733.22.

Action: Settlement Agreement to cease and desist; 6-month suspension with one-year probation.

MAY 2001

Charles A. Lewis, P.E.
Parma Heights, Ohio

Violation: Aiding and abetting the unlicensed practice of engineering [ORC 4733.20 (A) (3)].

Action: Settlement Agreement to voluntarily relinquish P.E. registration.

JUNE 2001

Norman J. Brown
Goldwing Enterprise Development Corp.
Columbus, Ohio

Violation: Practicing or offering to practice engineering in violation of ORC 4733.02 and 4733.22. Corporation practicing or offering to practice engineering without a certificate of authorization in violation of ORC 4733.16.

Action: Permanent injunction granted by Franklin County Common Pleas Court preventing Norman J. Brown and Goldwing Enterprise Development Corp. from practicing engineering.

JULY 2001

Lonnie E. Tustin, P.E., P.S.
Woodsfield, Ohio

Violation: Convicted of theft offense and failed to disclose it on P.S. application [ORC 4733.20 (A) (4) and 4733.20 (A) (1)].

Action: Six months probation and formal reprimand.

UNLICENSED DESIGNER

Permanent Injunction Granted

On June 14, 2001 the Franklin County Court of Common Pleas granted a permanent injunction against Norman J. Brown and Goldwing Enterprise Development Corporation of Columbus, Ohio.

The injunction prohibits Norman J. Brown from offering or providing engineering services, or contracting to provide or offer engineering services until he is a registered Professional Engineer with the State Board of Registration for Professional Engineers and Surveyors.

Goldwing Enterprise Development Corporation, which is owned by Norman J. Brown, is prohibited from practicing engineering, or offering to practice or provide engineering services, or contracting to practice or provide engineering services, until it obtains a Certificate of Authorization from the Board.

The Board, along with the State Board of Examiners of Architects, initiated an investigation after receiving information that false seals and signatures of a professional engineer and architect were placed on construction drawings that were submitted to the City of Columbus for a building permit. Both the engineer and architect denied any involvement or knowledge of the project.

The Board believed that Norman J. Brown illegally prepared the drawings and placed the allegedly forged seal of an engineer and the allegedly forged seal and signature of an architect on the drawings and submitted them to the City of Columbus.

Due to the severity of these possible violations, the Board — along with the State Board of Examiners of Architects — obtained a permanent injunction against Norman J. Brown and Goldwing Enterprise Development Corporation to prevent any further violations of the law.

PENDING LEGISLATION

H.B. 337 Initiated by Board

On August 2, 2001 Representative Tom Lendrum, P.E. (R-Huron) introduced H.B. 337. This legislation was requested by the Board and is "consensus legislation" due to the Board having worked with statewide engineering and surveying associations (CECO, OSPE, CECO and PLSO) for more than three years in order to achieve consensus on the proposed revisions to the registration act, Ohio Revised Code Chapter 4733. Primary changes included in H.B. 337 include the following.

1. To provide that a Board member will continue term of office until a successor takes office [R.C. 4733.03].

2. To revise requirements for "after college graduation" experience for engineers and surveyors to allow a maximum of two years of experience credit prior to college graduation, but after completion of the second year of college [R.C. 4733.11(A,B)]. Former Speaker Davidson's office requested this type of revision to accommodate "coop" and "non-traditional" college students.

3. To delete the provisions allowing registration by "eminence" for Professional Engineers or Professional Surveyors [R.C. 4733.11 (A) (3), (B) (5)].

4. To delete the provision allowing persons with "related science" degrees to become registered as Professional Engineers [R.C. 4733.11(A) (4)].

5. To require a signature and date, in addition to a seal, by registrants on their work products and to regulate the use of "electronic seals" [R.C. 4733.14].

6. To provide the Board the authority to issue a "Cease and Desist" order to individuals who are not registrants but who are illegally providing or offering to provide engineering or surveying services [R.C. 4733.201].

7. To provide the Board authority to impose a fine upon a registrant of not more than \$1,000 for each offense for which the registrant is found guilty [R.C. 4733.20(F)].

8. To prohibit a public authority from accepting or using engineering or surveying plans prepared by a person who is not registered as a Professional Engineer or Professional Surveyor [R.C. 4733.23].

The bill is likely to be considered by the House Commerce and Labor Committee and hopefully will be favorably "voted out" of committee in the fall of 2001 and passed into law in 2002.

REINSTATEMENT PROCEDURES

Expired Ohio PE/PS Registrations

It is important for any Professional Engineer or Professional Surveyor to make sure that registration is kept current.

The Board renews registrations each calendar year only if fees are paid as required by Ohio law. We mail applications for registration renewal each October with a return deadline of December 31.

If your registration is not current, your practice of engineering or surveying is illegal pursuant to R.C. 4733.02.

If your Ohio registration has been expired for more than four years, you must take and pass the NCEES Principles and Practice of Engineering or Principles and Practice of Surveying examination as part of the reinstatement process.

In addition, the renewal fees are tripled after one year of expiration.

Unless you want to pay triple fees or take another 8-hour examination, we suggest you keep your PE and PS registration current.

EXAMINATION DEADLINES AND DATES

Deadlines and NCEES Exam Dates

R.C. Chapter 4733 mandates our application deadlines which are 90 days before each NCEES exam. Here are future application deadlines and examination dates.

April 2002

Deadline is **January 19, 2002**. Exams will be held on April 19 (PE/PS) and April 20 (FE/FS).

October 2002

Deadline is **July 27, 2002**. Exams will be held on October 25 (PE/PS) and October 26 (FE/FS).

April 2003

Deadline is **January 11, 2003**. Exams will be held on April 11 (PE/PS) and April 12 (FE/FS).

Ohio Engineers and Surveyors Board PE/PS Newsletter 09/2001

77 South High Street, Room 1698
Columbus, Ohio 43215

TELEPHONE +1 614 466 3650
FAX +1 614 728 3059
TOLL FREE +1 877 644 6364

EMAIL board@mail.peps.state.oh.us
WEB <http://www.peps.state.oh.us>

Board Members

Chair

Dean Ringle, P.E., P.S., Powell

Vice Chair

Alan Olson, P.E., Bay Village

Secretary

David Cox, P.S., West Chester

Member

Chandra Shah, P.E., Cincinnati

Member

Ronald Zook, P.E., Pataskala

Executive Secretary

Mark Jones, P.S.
+1 614 466 8948
mjones@mail.peps.state.oh.us

Administrative Assistant

Michael Jacobson, E.I.
+1 614 466 8999
mjacob@mail.peps.state.oh.us

Board Investigator

John Greenhalge
+1 614 466 9106
jgreenhalge@mail.peps.state.oh.us

Assistant Attorney General

Cheryl Pokorny
+1 614 466 2980
cpokorny@mail.ag.state.oh.us

Board Staff

Carol Scott
+1 614 644 9072
cscott@mail.peps.state.oh.us

Mary Wilson
+1 614 466 3651
mwilson@mail.peps.state.oh.us

Dwight Phelps
+1 614 644 9090
dphelps@mail.peps.state.oh.us

Definitions

Chapter 4733 State Board of Registration for Professional Engineers and Surveyors Registration Act

R.C. Revised Code: Ohio's laws

A.C. Administrative Code: Ohio's rules