THE LAWS, RULES, & ETHICS GOVERNING THE PRACTICE OF ENGINEERING IN FLORIDA

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The Challenge:

- How to cover all this material in 2 hours.
- How to do so in a way that will not put you to sleep.
- How to encourage you to undertake additional efforts to become more proficient in these areas.

The Solution:

- Make you understand the benefit to you!!
- Keep it interesting (easier said than done).
- Provide you with specific suggestions and resources to assist your self-study

Main Sources for Laws, Rules and Ethics

- Chapter 471, Florida Statutes (Practice Act)
- Chapter 455, Florida Statutes
- 61G15, Florida Administrative Code
- Codes of ethics adopted by NSPE, ASCE, IEEE and others

Get copies of Chapter 471 and 61G15!!

- You can get these from the BOPE website
- https://fbpe.org
- If you do not have the FBPE website bookmarked on your computer, DO IT!!
- In addition to the laws and rules, you can access other resources such as FAQs, a link to the Florida Building Code Information System, etc.

Florida Engineering Practice Act: Chapter 471, F.S.

- Provides the requirements for licensure as a Professional Engineer.
- Creates the BOPE
- Provides the grounds for disciplinary action against a Professional Engineer
- Grants the Board the Authority to Promulgate Rules

Rule Chapter 61G15, Florida Administrative Code

- Contains all the rules promulgated by the BOPE, including
- Education, experience and examination requirements
- Grounds for disciplinary proceedings and disciplinary guidelines
- Procedures for the adoption of another's work (Successor Engineer Rule)
- Responsibility Rules (Standards of Practice)
- This is where the details are. Chapter 471 is 10 pages.
- 61G15 is 71 pages.

Chapter 455, F.S.

- Contains a number of laws applicable to all practitioners under the umbrella of DBPR including:
  - §455.225, F.S., establishes the authority and procedures to conduct an investigation and disciplinary action
  - §455.227, F.S., provides general grounds for disciplinary action against all DBPR licensees

Code of Ethics and Fundamental Principles

- Ethics is the study of the moral principles that govern the conduct of individuals or groups. Engineering ethics are the rules and standards that govern the conduct and interactions of engineers as professionals.
- There has been a general consensus for many years that engineering curricula should include substantial education related to professional ethics. This has been formally embodied in ABET (Accreditation Board for Engineering and Technology) requirements for the accreditation of engineering curricula.
- Most Engineering Societies and Associations have a Code of Ethics. These codes are usually stated as general principles and almost never describe specific factual situations. They serve as a starting point for making ethical decisions.
- An engineer cannot be disciplined by the BOPE for being "unethical" or for violating a provision of an ethics code. However, many ethical situations are covered under the Board's definition of misconduct in 61G15-19.001(6), F.A.C.

Ethics Resources Available on the Internet

- Online Ethics for Engineering:
  - http://www.onlineethics.org/
- National Society of Professional Engineers (NSPE) Code of Ethics:
  - http://www.nspe.org/resources/ethics
- Institute of Electrical and Electronics Engineers (IEEE) Code of Ethics:
  - https://www.ieee.org/about/ieee_code_of_conduct.pdf
- American Society of Civil Engineers (ASCE) Fundamental Principles:
  - http://www.asce.org/code-of-ethics/

§471.005(7), F.S., Engineering Defined:

- Includes the term "professional engineering" and means any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and

  engineering sciences to such services or creative work as:

§471.005(7), F.S., Engineering Defined:

- CONSULTATION,
- INVESTIGATION,
- EVALUATION,
- PLANNING, AND
- DESIGN OF ENGINEERING WORKS AND SYSTEMS,
- PLANNING THE USE OF LAND AND WATER,
- TEACHING OF THE PRINCIPLES AND METHODS OF ENGINEERING DESIGN,
- ENGINEERING SURVEYS, AND

§471.005(7), F.S., Engineering Defined:

- THE INSPECTION OF CONSTRUCTION FOR THE PURPOSE OF DETERMINING IN GENERAL IF THE WORK IS PROCEEDING IN COMPLIANCE WITH DRAWINGS AND SPECIFICATIONS, ANY OF WHICH
  EMBRACES SUCH SERVICES OR WORK, EITHER PUBLIC OR PRIVATE, IN CONNECTION WITH ANY UTILITIES, STRUCTURES, BUILDINGS, MACHINES, EQUIPMENT, PROCESSES, WORK SYSTEMS, PROJECTS, AND INDUSTRIAL OR CONSUMER PRODUCTS OR EQUIPMENT OF A
  MECHANICAL, ELECTRICAL, HYDRAULIC, PNEUMATIC, OR THERMAL NATURE, INSOFAR AS THEY INVOLVE SAFEGUARDING LIFE, HEALTH, OR PROPERTY; AND INCLUDES SUCH OTHER PROFESSIONAL SERVICES AS MAY BE NECESSARY TO THE PLANNING, PROGRESS, AND COMPLETION OF ANY ENGINEERING SERVICES.

Practice Overlap

- The practice of engineering overlaps with the practices of:
  - Geology
  - Architecture
  - Landscape Architecture
  - Land Surveying and Mapping

§471.003(3), F.S., Incidental Practice:

- NO REGISTERED ENGINEER WHOSE PRINCIPAL PRACTICE IS CIVIL OR STRUCTURAL ENGINEERING, OR EMPLOYEE OR SUBORDINATE UNDER THE RESPONSIBLE SUPERVISION OR CONTROL OF THE ENGINEER, IS PRECLUDED FROM PERFORMING ARCHITECTURAL SERVICES WHICH ARE PURELY INCIDENTAL TO HER OR HIS ENGINEERING PRACTICE,...

§471.003(3), F.S., Incidental Practice:

- ...nor is any registered architect, or employee or subordinate under the responsible supervision or control of the architect, precluded from performing engineering services which are purely incidental to her or his architectural practice. However, no engineer shall practice architecture or use the designation "architect" or any term derived therefrom, and no architect shall practice engineering or use the designation "engineer" or any term derived therefrom.

Even though you may be able to practice "incidental architecture":

- §471.037 Effect of chapter locally.—
  - Nothing contained in this chapter shall be construed to repeal, amend, limit, or otherwise affect any local building code or zoning law or ordinance, now or hereafter enacted, which is more restrictive with respect to the services of licensed engineers than the provisions of this chapter.

Status of License

- Active
- Inactive
- Retired
- Delinquent
- Null and Void
- The Board has now established a reinstatement process for void licenses, see Rule 61G15-22.0002(3)

Statute Change 2019 – HB827

- After the passage of HB827, an applicant with an engineering technology degree can now become licensed as an engineer in Florida. (§471.013, F.S.)
- The applicant applying with this degree must be a graduate of an approved engineering technology curriculum of 4 years of more in a school, college, or university approved by the Board.
- An applicant with a Technology degree must demonstrate 6 years of experience to sit for the Principles and Practice Exam.

Statute Change 2019 – HB827

§471.023, F.S. Qualification of Business Organizations

- Before the change, the practice of, or the offer to practice engineering services to the public through a business organization was permitted ONLY IF the business organization possessed a certification issued by the management corporation pursuant to qualification by the board.
- Now, no certification (or fee) is required. Instead, the business organization must be qualified by a Florida licensed engineer.
- The new law did not establish an application process or give the Board the authority to look at the qualifications of the qualifier.
- Disciplinary action against the ENTITY being qualified is no longer available.

Statute Change 2019 – HB827

§471.023, F.S. Qualification of Business Organizations

- A qualifying agent who terminates an affiliation with a qualified business organization shall notify the management corporation of such termination within 24 hours. If such qualifying agent is the only qualifying agent for that business organization, the business organization must be qualified by another qualifying agent within 60 days after the termination.
- Except as provided in paragraph (b), the business organization may not engage in the practice of engineering until it is qualified by another qualifying agent.

Statute Change 2019 – HB827

§471.023, F.S. Qualification of Business Organizations

New Language:

- (b) In the event a qualifying agent ceases employment with a qualified business organization and the qualifying agent is the only licensed individual affiliated with the business organization, the executive director of the management corporation or the chair of the board may authorize another licensee employed by the business organization to temporarily serve as its qualifying agent for a period of no more than 60 days to proceed with incomplete contracts. The business organization is not authorized to operate beyond such period under this chapter absent replacement of the qualifying agent.
- (c) A qualifying agent shall notify the department in writing before engaging in the practice of engineering in the licensee's name or in affiliation with a different business organization.

Statute Change 2020 – HB1193

§471.015, F.S. Licensure

New Language:

- (5)(a) The board shall deem that an applicant who seeks licensure by endorsement has passed an examination substantially equivalent to the fundamentals examination when such applicant has held a valid professional engineer's license in another state for 10 ~~15~~ years ~~and has had 20 years of continuous professional-level engineering experience~~.
- (b) The board shall deem that an applicant who seeks licensure by endorsement has passed an examination substantially equivalent to the fundamentals examination and the principles and practices examination when such applicant has held a valid professional engineer's license in another state for 15 ~~25~~ years ~~and has had 30 years of continuous professional-level engineering experience~~.

New Statute 2020 – HB1193

§ 455.2278 Restriction on disciplinary action for student loan default.—

(1) DEFINITIONS.—As used in this section, the term:

(A) "Default" means the failure to repay a student loan according to the terms agreed to in the promissory note.

(B) "Delinquency" means the failure to make a student loan payment when it is due.

(C)"Student loan" means a federal-guaranteed or state-guaranteed loan for the purposes of postsecondary education.

(D)"Work-conditional scholarship" means an award of financial aid for a student to further his or her education which imposes an obligation on the student to complete certain work-related requirements to receive or to continue receiving the scholarship.

(2)STUDENT LOAN DEFAULT; DELINQUENCY.—The department or a board may not suspend or revoke a license that it has issued to any person who is in default on or delinquent in the payment of his or her student loans solely on the basis of such default or delinquency.

(3)WORK-CONDITIONAL SCHOLARSHIP DEFAULT.—The department or a board may not suspend or revoke a license that it has issued to any person who is in default on the satisfaction of the requirements of his or her work- conditional scholarship solely on the basis of such default.

Responsible Charge: Rule 61G15-18.011

- "Responsible Charge" shall mean that degree of control an engineer is required to maintain over engineering decisions made personally or by others over which the engineer exercises supervisory direction and control authority.

Test to evaluate whether an engineer is in Responsible Charge:

- The engineer shall be capable of answering questions relevant to the engineering decisions made during the engineer's work on the project, in sufficient detail as to leave little doubt as to the engineer's proficiency for the work performed and involvement in said work. It is not necessary to defend decisions as in an adversary situation, but only to demonstrate that the engineer in responsible charge made them and possessed sufficient knowledge of the project to make them.
- Engineers shall perform services only in areas of their

61G15-19.004: Disciplinary Guidelines

- Provides a range of penalties used by the Board
- Provides aggravating circumstances, including history of previous violations and the magnitude and scope of the negligence.
- Provides mitigating circumstances, including lack of previous disciplinary history and the minor nature of the project in question.

Common Ethical Dilemmas and Issues Facing Engineers

- Acknowledging mistakes
- Conflicts of interest
- Safety of products and projects
- Responsibility arising from actions of others
- Whistle blowing
- Cutting corners
- Plan-stamping

Grounds for Discipline vs. Ethics

- Due Process requires that laws and rules that may be used to discipline a licensee provide reasonable and meaningful notice to licensees of the conduct that is prohibited. Any behavior that is not explicitly listed in the laws and rules as grounds for disciplinary action cannot (should not) be used by the BOPE to support discipline.
- Even though engineers should always strive to take the most ethical approach possible, one cannot be disciplined for being unethical – unless the behavior is specifically defined as "misconduct" in the rule.

Definition of Misconduct: 61G15-19.001(6), F.A.C.

- This rule provides numerous examples of what will be considered "misconduct" in the practice of engineering as that term is used in 471.033(1)(g), Florida Statutes. The examples cover many things such as:
- Being untruthful, deceptive or misleading.
- Practicing in an area you are unqualified.
- Plan stamping.
- Bribes and conflicts of interest.
- Revealing facts or information acquired in an engineering capacity without authorization from the client.

Codes of Ethics Counterparts to Definition of Misconduct: 61G15-19.001(6), F.A.C.

- Engineers shall issue public statements only in an objective and truthful manner. (NSPE Code of Ethics)
- Avoid deceptive acts. (NSPE Code of Ethics)
- Perform services only in their area of competence. (NSPE Code of Ethics)
- Engineers shall not accept commissions or allowances, directly or indirectly from contractor or other parties dealing with clients or employers of the engineer in connection with work for which the engineer is responsible. (NSPE Code of Ethics)
- Engineers shall not use association with a non-engineer, a corporation or partnership as a "cloak" for unethical acts. (NSPE Code of Ethics); Engineers shall associate only with reputable persons or organizations. (ASME Code of Ethics)

Hypothetical #1

- Facts: Engineer A is a professional engineer and owner of ABC Engineering. Engineer A recently learned that Engineer B, a former employee of ABC who recently started his own firm (EFG Engineering), is claiming "extensive project experience." The EFG Engineering website references a list of "past clients" and "past projects." In fact, Engineer A was the Engineer of Record and it was Engineer A's company (ABC Engineering) that was responsible for the design of the "past projects" referenced for "past clients." On none of the projects Engineer B lists on the EFG website was Engineer B the Engineer of Record. Engineer B was an engineer-intern for most of Engineer B's tenure with ABC Engineering. While Engineer B performed tasks for the referenced clients and on "past projects," Engineer B's role was as a junior member of the design team.
- Questions: What are the ethical issues involved?

Hypothetical #1

- Relevant NSPE Codes of Ethics:
- Engineers shall not falsify their qualifications or permit misrepresentation of their or their associates' qualifications. They shall not misrepresent or exaggerate their responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint venturers, or past accomplishments.
- Engineers shall act for each employer or client as faithful agents or trustees.
- Engineers shall give credit for engineering work to those to whom credit is due and will recognize the proprietary interests of others.
- Engineers having knowledge of any alleged violation of this Code shall report thereon to appropriate professional bodies and, when relevant, also to public authorities, and cooperate with the proper authorities in furnishing such information or assistance as may be required.

Hypothetical #1

- Whenever a new engineering firm is created by engineers who previously worked at other firms, there will be issues regarding how to properly claim or advertise relevant experience. Creating a "list of clients" or "list of projects" for the new firm may result in ethical violations if there is an impression that the clients or the projects were generated by the new firm.

- The issue goes both ways. What happens if Engineer A, working at his previous firm was responsible for two projects that received engineering excellence awards? Engineer A leaves, but the firm continues to tout the awards on the firm's website?

Hypothetical #1

- Conclusion: This is a clear-cut case. Engineer B falsely claimed experience and credit for work he was not responsible for. What about Engineer A's ethical responsibilities?
- Better Way: Before filing a complaint, Engineer A should send a letter noting that Engineer B and Engineer B's firm are improperly and falsely claiming credit for work for which they were not responsible or in which Engineer B played a minor role and requesting that they desist from including the subject references on their website.
- Ethical questions relating to ownership of engineering work, appropriate credit to those responsible for engineering designs and other work, and related issues often come to the surface when engineers leave a firm. There are ways that past work and achievements can continue to be advertised with the proper disclosure and attribution, and these are things that should be discussed before leaving.

Punishment for Misconduct Violations

- The Board sets forth a range of disciplinary guidelines from which disciplinary penalties will be imposed upon practitioners, subject to the discretion of the Board.
- The board shall be entitled to deviate from the guidelines upon a showing of aggravating or mitigating circumstances by clear and convincing evidence presented to the board prior to the imposition of a final penalty.
  - Penalties for violation of §471.033(1)(g) range from:
    - Reprimand, 2 years probation, and $1,000 fine, to
    - Suspension for 2-5 years, a $5,000 fine, and even revocation of licensure.

Code of Ethics and Fundamental Principles

American Society of Civil Engineers (ASCE) fundamental principles:

- Engineers must uphold and advance the integrity, honor and dignity of the engineering profession by:
  - (a) using their knowledge and skill for the enhancement of human welfare and the environment
  - (b) being honest and impartial and serving with fidelity the public, their employers and clients
  - (c) striving to increase the competence and prestige of the engineering profession
  - (d) supporting the professional and technical societies of their disciplines.

Code of Ethics and Fundamental Principles

ASCE fundamental Principles (cont.):

- Engineers shall build their professional reputation on the merit of their services and shall not compete unfairly with others.
- Engineers shall act in such a manner as to uphold and enhance the honor, integrity, and dignity of the engineering profession and shall act with zero-tolerance for bribery, fraud, and corruption.
- Engineers shall continue their professional development throughout their careers, and shall provide opportunities for the professional development of those engineers under their supervision.
- ASCE provides canons to supplement the above principles on their website.

Code of Ethics and Fundamental Principles

National Society of Professional Engineers (NSPE) Code of Ethics:

- Engineers, in the fulfillment of their professional duties, shall:
  - **Hold paramount the safety, health, and welfare of the public;**
  - Perform services only in areas of their competence;
  - Issue public statements only in an objective and truthful manner;
  - Act for each employer or client as faithful agents or trustees;
  - Avoid deceptive acts;
  - Conduct themselves honorably, responsibly, ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession.
- NSPE also provides guidelines to supplement the above canons, as well as a list of Professional Obligations, on their website.

Code of Ethics and Fundamental Principles

Institute of Electrical and Electronics Engineers (IEEE) Code of Ethics: Members of the IEEE agree:

- to accept responsibility in making decisions consistent with the safety, health, and welfare of the public, and to disclose promptly factors that might endanger the public or the environment;
- to avoid real or perceived conflicts of interest whenever possible, and to disclose them to affected parties when they do exist;
- to be honest and realistic in stating claims or estimates based on available data;
- to reject bribery in all its forms;

Code of Ethics and Fundamental Principles

IEEE Ethics Code (cont.):

- to improve the understanding of technology; its appropriate application, and potential consequences;
- To maintain and improve our technical competence and to undertake technological tasks for others only if qualified by training or experience, or after full disclosure of pertinent limitations;
- to seek, accept, and offer honest criticism of technical work, to acknowledge and correct errors, and to credit properly the contributions of others;

Code of Ethics and Fundamental Principles

IEEE Ethics Code (cont.):

- to treat fairly all persons and to not engage in acts of discrimination based on race, religion, gender, disability, age, national origin, sexual orientation, gender identity, or gender expression;
- to avoid injuring others, their property, reputation, or employment by false or malicious action;
- to assist colleagues and co-workers in their professional development and to support them in following this code of ethics.
- IEEE also provides guidelines to supplement the above canons, available on their website.

The Engineer as Fiduciary

- Fiduciary

  1)n. from the Latin fiducia, meaning "trust," a person (or a business like a bank or stock brokerage) who has the power and obligation to act for another (often called the beneficiary) under circumstances which require total trust, good faith and honesty. The most common is a trustee of a trust, but fiduciaries can include business advisers, attorneys, guardians, administrators of estates, real estate agents, bankers, stockbrokers, title companies or anyone who undertakes to assist someone who places complete confidence and trust in that person or company. Characteristically, the fiduciary has greater knowledge and expertise about the matters being handled. A fiduciary is held to a standard of conduct and trust above that of a stranger or of a casual business person. He/she/it must avoid "self-dealing" or "conflicts of interests" in which the potential benefit to the fiduciary is in conflict with what is best for the person who trusts him/her/it.

Statute Change 2019 – HB827 Successor Engineer

- 471.025 Seals.—
- (4) A successor engineer seeking to reuse documents previously sealed by another engineer must be able to independently re-create all of the work done by the original engineer. A successor engineer assumes full professional and legal responsibility by signing and affixing his or her seal to the assumed documents. Such documents must be treated as though they were the successor engineer's original product, and the original engineer is released from any professional responsibility or civil liability for prior work assumed by the successor engineer. For the purposes of this subsection, the term "successor engineer" means an engineer who is using or relying upon the work, findings, or recommendations of the engineer who previously sealed the pertinent documents.

Statute Change 2019 – HB827 Successor Engineer

- The Board's rule has always provided that the successor engineer took full responsibility for his/her plans and that the original engineer was no longer liable. A 2015 5th DCA case questioned that principle.

  The amendment to the statute now clearly provides that the successor engineer's documents are to be considered original work and the original engineer is released from any professional responsibility or civil liability.

61G15-27.001: Procedures for a Successor Professional Engineer Adopting As His Own the Work of Another Engineer

- Just because a P.E. is hired to perform contract administration/supervision during the construction of a project that was permitted based upon design documents sealed by another P.E. does not automatically trigger the provisions of the successor engineer rule. However, as a practical matter, unless any changes are submitted to (and signed/sealed by the original engineer) the new engineer will end up becoming the EOR.
- The statute is triggered when a P.E. is "using or relying" upon the work, findings, or recommendations of the engineer who previously sealed the pertinent documents.
- How much "use" or "reliance" will trigger the statute is debatable. Nevertheless, it appears that the successor engineer must sign and seal something ("assumed documents")

"Plan stamping"

- One of the most common violations of engineering rules, as it carries both professional and ethical implications, but one of the easiest to avoid.
- By sealing a set of plans or specifications, you are effectively stating that you have reviewed and approved the documents in question and that those plans or specifications are of a design safe to the public health and welfare and in conformity with accepted engineering standards.
- Also, the engineer who reviews another engineer's plans, signs, and seals them may be at risk of an ethical violation if, say, the original engineer was never paid for his services and the subsequent engineer knew of this fact.

"Plan stamping"

- Engineering ethics are not only for the benefit of the general public, but also for other engineers.
- The National Society of Professional Engineers' (NSPE) Code of Ethics states at Section III, that engineers shall be guided in all their relations by the highest standards of honesty and integrity- and those relations also include those with your colleagues.

Case Law Break

FEMC v. C.K.:

- In 2007, C.K., while acting under the supervision of the EOR Engineer A, designed a swimming pool and spa. The EOR signed and sealed the design documents, and the pool/spa design was permitted by the local building department. However, the design was not permitted by the Florida Department of Health.
- In 2015, the then owner of the pool/spa project became aware that the project had never been permitted by the FDOH. The owner requested assistance from C.K. to obtain the required permit. C.K. prepared drawing on his company's title block to document the actual construction of the original design of the project that had been signed by Engineer A.
- The drawings were virtually identical to the 2007 drawings.

Case Law Break

- The Board found that C.K. failed to notify the original PE by certified letter of C.K.'s intention to use or reuse Engineer A's work (even though C.K. designed the pool/spa project).
- C.K. was fined $1,000, reprimanded, was required to complete a course in engineering professionalism and ethics, and was required to complete a study guide to return to the Board.

Moral of the Story: Send the Notice to the prior engineer, even if you worked on the project in the past!

Case Law Break

FEMC v. J.N.:

- Engineer J.N. had previous discipline for signing and sealing documents with material deficiencies.
- In this case, J.N. signed and sealed 13 pages of engineering design documents for a private dwelling project (6,176 sq. ft., three-story-building).
- The Board's review of the design documents revealed numerous material deficiencies in the Electrical Documents, the Mechanical (HVAC) Documents, the Mechanical (Plumbing) Documents, and the Structural Engineering Documents.

Case Law Break

- Some of the deficiencies noted were:
  - The power service for the elevator was not shown, nor were the load calculations for the elevator load.
  - The mechanical plan did not contain the criteria as required by FBC-B Section 107.3.5.
  - One of the water closets violated FBC-P Table 709.1, using a 2” sanitary drain where a 3” drain was required.
  - Vult, Vasd, and Risk category were not incorporated into the construction documents as required by the 2017 FBC, Section 1603.1.4.

Case Law Break

- The Board instituted the following penalty:
  - Fined $2,000;
  - Pay costs of $13,000;
  - Reprimanded;
  - Restricted from creating, producing, or certifying ANY Structural Engineering documents until J.N. takes and passes the NCEES 16-hour Structural Examination
  - Submission of all completed Structural Engineering Projects for PROJECT REVIEW at 6 and 18 month intervals after the successful passing of the NCEES exam, probation for 2 years;
  - Required to complete a course in engineering professionalism and ethics;
  - Required to complete a study guide to return to the Board; and

Case Law Break

- Required to submit to the Board a detailed list of all completed projects for project review at 6 and 18 month intervals from the date of the Final Order, <u>including all</u> mechanical, electrical, and plumbing engineering projects and reports signed and sealed by J.N.

<u>Moral of the Story:</u> Pay attention to and strictly follow the FBC, and be sure only to practice in areas in which you are competent!

Hypothetical #2

- Facts: Engineer A is hired by Client B to conduct a building investigation to determine the origin and cause of a fire resulting in financial loss. During the investigation, Engineer A, who was also a structural engineer, observes that the building is structurally unstable. Engineer A performs a preliminary investigation of the building and after speaking with Client B, concludes that there were recent structural changes made to the building that may have caused the roof to sag and the walls to lean outward due to insufficient lateral restraint. Engineer A also learns that following construction modifications, the building was issued a certificate of occupancy by a county building official. Although not imminent, collapse of the building is a danger, Engineer A believes. Engineer A immediately advises Client B and calls the county building official. The county building official did not return Engineer A's phone call. Engineer A also recommended to the owners to brace the building to prevent its collapse.
- Question: What are Engineer A's ethical obligations?

Hypothetical #2

- Relevant NSPE Codes of Ethics:
- Engineers, in the fulfillment of their professional duties, shall: Hold paramount the safety, health, and welfare of the public
- If engineers' judgment is overruled under circumstances that endanger life or property, they shall notify their employer or client and such other authority as may be appropriate.
- Engineers shall advise their clients or employers when they believe a project will not be successful.
- Engineers shall act for each employer or client as faithful agents or trustees.

Hypothetical #2

- This case presents an example of a fundamental ethical dilemma faced by professional engineers in their professional practice. In this case, a professional engineer is presented with a situation involving a potential impact on the safety and welfare of the public, the resolution of which will have adverse financial implications to his client. In such cases, professional engineers must decide, after pointing out the situation, how far their obligation to seek corrective action reaches. Here, Engineer A brought his concerns to Client B and also contacted the county building official who did not return Engineer A's phone call. Although Engineer A did not believe the building was in danger of imminent collapse, Engineer A had an obligation to continue to pursue a resolution of the matter by working with Client B and in contacting the supervisor of the county official, the fire marshal, or any other agency having jurisdiction to determine whether an investigation was warranted after the issuance of the certificate of occupancy.

Ethics Quick Test

- **If you know it's wrong, don't do it!**
- Is the action legal?
- Does it comply with your values as an engineer?
- Does it comply with Florida Statutes and Rules?
- If you do it, will you feel bad?
- How will it look to other engineers?
- If you're not sure, ask your attorney!

61G15-23.002. Seal, Signature and Date Shall Be Affixed

- A professional engineer shall sign by hand the licensee's handwritten signature (facsimiles are not acceptable) and affix the licensee's seal:
  - To all final drawings, specifications, plans, reports, or documents prepared or issued by the licensee and being filed for public record; and
  - To all final documents provided to the owner or the owner's representative;
  - In addition, the date that the signature and seal is affixed as provided herein shall be entered on said plans, specifications, reports, or other documents immediately adjacent to the signature of the professional engineer.

Procedures for Signing and Sealing Electronically Transmitted Documents

- Rule 61G15-23.003, F.A.C.:
- Must use a "digital signature" or an "electronic signature", as defined in §668.003, F.S. If using an electronic signature, the P.E. must create a "signature" file having an authentication code following the requirements in the rule.
- A scanned image of an original signature shall not be used in lieu of a digital or electronic signature.

Certification

61G15-29.001 Certification Definition, Procedures, Prohibitions:

The term "Certification" as used herein shall be as set forth in Rule 61G15-18.011(4), F.A.C. (4):

"Certification" shall mean a statement signed and sealed by a professional engineer representing that the engineering services addressed therein, as defined in Section 471.005(6), F.S., have been performed by the professional engineer, and based upon the professional engineer's knowledge, information and belief, and in accordance with commonly accepted procedures consistent with applicable standards of practice, and is not a guaranty or warranty, either expressed or implied."

When an engineer is presented with a certification to be signed and/or sealed, he or she should carefully evaluate that certification to determine if any of the circumstances set forth in subsection (3) would apply. If any of these circumstances would apply, that engineer shall either: (a) modify such certification to limit its scope to those matters which the engineer can properly sign and/or seal, or (b) decline to sign such certification.

61G15-30.002: Definitions Common to All Engineer's Responsibility Rules

1. Engineer of Record: A Florida professional engineer who is in responsible charge for the preparation, signing, dating, sealing and issuing of any engineering document(s) for any engineering service or creative work.
2. Prime Professional: A Florida professional engineer, or a duly qualified engineering corporation or partnership, who is engaged by the client to provide any planning, design, coordination, arrangement and permitting for the project and
   for construction observations in connection with any engineering project, service or creative work. The prime professional engineer may also be an engineer of record on the same project.

61G15-30.002: Definitions Common to All Engineer's Responsibility Rules

3. Delegated Engineer: A Florida professional engineer who undertakes a specialty service and provides services or creative work (delegated engineering document) regarding a portion of the engineering project. The delegated engineer is the engineer of record for that portion of the engineering project. A delegated engineer usually falls into one of the following categories:
    a. An independent consultant.
    b. An employee or officer of an entity supplying components to a fabricator or contractor, so long as the engineer acts as an independent consultant or through a duly qualified engineering corporation.
    c. An employee or officer of a fabricator or contractor, so long as the engineer acts as an independent consultant or through a duly qualified engineering corporation.

Rule 61G15-30.003: Minimum Requirements for Engineering Documents

- Engineering Documents are prepared in the course of performing engineering services. When prepared for inclusion with an application for a general building permit, the Documents shall meet all Engineer's Responsibility Rules, set forth in Chapters 61G15-31, 61G15-32, 61G15-33, and 61G15-34, F.A.C., and be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of the Florida Building Code, adopted in Section 553.73, F.S., and applicable laws, ordinances, rules and regulations, as determined by the AHJ. The Documents shall include:

61G15-30.005 Delegation of Engineering Documents: Obligations of the Engineer of Record

1. An engineer of record who delegates a portion of his responsibility to a delegated engineer is obligated to communicate in writing his engineering requirements to the delegated engineer.
2. An engineer of record who delegates a portion of his design responsibility to a delegated engineer shall require submission of delegated engineering documents prepared by the delegated engineer and shall review those documents for compliance with his written engineering requirements and to confirm certain requirements contained in the rule

61G15-30.009, F.A.C.: Retention of Engineering Documents

- At least one copy of all documents displaying the licensee's signature, seal, date, and all related calculations shall be retained by the licensee or the licensee's employer for a minimum of three years from the date the documents were sealed.

Responsibility Rules

- 61G15-31: Design of Structures
- 61G15-32: Design of Fire Protection Systems
- 61G15-33: Design of Electrical Systems
- 61G15-34: Mechanical Systems
- 61G15-35: Threshold Building Inspections
- 61G15-36: Product Evaluation

RULES

Adopted, Amended, or Repealed During the Immediate Preceding Biennium (2019-2021) and Current Biennium

Rules Adopted, Amended, or Repealed During the Previous Biennium (2019-2021)

Rule No.	Rule Title	Effective Date
61G15-18.005	Probable Cause Determination	8/26/2019
61G15-18.011	Definitions	5/27/2020
61G15-18.012	Other Board Business for Which Compensation is Allowed	11/16/2020
61G15-19.001	Grounds for Disciplinary Proceedings	12/29/2019
61G15-19.004	Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances	12/29/2019
61G15-19.0051	Notice of Noncompliance	11/2/2020
61G15-19.0071	Citations	11/2/2020
61G15-20.001	Definitions	12/29/2019
61G15-20.0010	Application for Licensure as Professional Engineer	5/27/2020
61G15-20.0015	Application for Certification as Engineering Intern	12/29/2019
61G15-20.0019	Armed Forces Member/Spouse Application for Licensure; Qualifications; Expiration	8/6/2019
61G15-20.002	Experience	12/29/2019
61G15-20.006	Educational Requirements	12/29/2019
61G15-20.007	Educational Requirements for Applicants without EAC/ABET Accredited Engineering Degrees	5/27/2020
61G15-20.008	Educational Requirements for Applicants without ETAC/ABET Accredited Engineering Technology Degrees	5/27/2020

Rules Adopted, Amended, or Repealed During the Previous Biennium (2019-2021)

Rule No.	Rule Title	Effective Date
61G15-20.100	Qualified Business Organizations	12/29/2019
61G15-22.0001	License Renewal	7/25/2019
61G15-22.0002	Licensure Change of Status, Reactivation; Reinstatement of Void Licenses	12/29/2019
61G15-22.001	Continuing Education Requirements	12/29/2019
61G15-22.006	Demonstrating Compliance; Audits; Investigations	12/29/2019
61G15-22.009	Exemptions from Continuing Education Requirements	11/16/2020
61G15-22.011	Board Approval of Continuing Education Providers	5/3/2020
61G15-23.001	Signature, Date and Seal Shall Be Affixed	12/29/2019
61G15-23.002	Seals Acceptable to the Board	11/16/2020
61G15-23.004	Procedures for Digitally Signing and Sealing Electronically Transmitted Plans, Specifications, Reports or Other Documents	11/2/2020
61G15-23.005	Procedures for Electronically Signing and Sealing Electronically Transmitted Plans, Specifications, Reports or Other Documents	11/2/2020
61G15-24.001	Schedule of Fees	12/29/2019
61G15-30.001	Purpose	5/14/2020
61G15-32.002	Definitions	12/29/2019
61G15-32.003	Common Requirements to All Fire Protection System Engineering Documents	7/25/2019
61G15-32.004	Design of Water Based Fire Protection Systems	7/25/2019
61G15-32.008	Design of Fire Alarms, Signaling Systems, and Control Systems	7/25/2019
61G15-32.010	Design of Smoke Control Systems	7/25/2019

Important Rules Adopted, Amended, or Repealed During the Immediate Preceding Biennium (2019-2021)

61G15-22.001 Continuing Education Requirements

(1) Each licensee shall complete eighteen (18) continuing education hours during each license renewal biennium as a condition of license renewal. Four (4) hours shall relate to the licensee's area(s) of practice; one (1) hour must be related to professional ethics; and one (1) hour shall relate to Chapter 471, F.S., and the rules of the Board. The remaining hours may relate to any topic pertinent to the practice of engineering as defined in Rule 61G15-22.002, F.A.C. The 1 hour of professional ethics and 1 hour of laws and rules required by section 471.017 must be obtained from courses approved by the Board pursuant to Rule 61G15-22.015, F.A.C.

(4) In addition to auditing licensee compliance as provided in subsection (2), to monitor licensee compliance with continuing education requirements, any investigation conducted pursuant to section 455.255, F.S. shall be expanded to include investigation of compliance with continuing education.

Important Rules Adopted, Amended, or Repealed During the Immediate Preceding Biennium (2019-2021)

61G15-32 Responsibility Rules of Professional Engineers Concerning the Design of Fire Protection Systems.

The rules have been amended to update codes, standards and references.

61G15-33 Responsibility Rules of Professional Engineers Concerning the Design of Electrical Systems.

The rules have been amended to update codes, standards and references, and to provide additional requirements to be considered in the design of various systems.

Important Rules Adopted, Amended, or Repealed During the Immediate Preceding Biennium (2019-2021)

- Disciplinary Guidelines, Rule 61G15-19.004
  - For business organizations that are not properly qualified, a disciplinary guideline was added to include a reprimand, a $500-$5,000 fine, and 1-year suspension for the first violation.
  - Amended December 29, 2019.

Important Rules Adopted, Amended, or Repealed During the Immediate Preceding Biennium (2019-2021)

- Disciplinary Guidelines, Rule 61G15-20.001
  - Allows for "engineering technology programs" to be considered as board approved engineering programs.
  - Amended December 29, 2019.
- Reinstatement of Void Licenses, Rule 61G15-22.0002(3)
  - Created December 29, 2019.

Important Rules Adopted, Amended, or Repealed During the Immediate Preceding Biennium (2019-2021)

61G15-20.100 Qualified Business Organizations ~~Certificates of Authorization~~.

(1)Pursuant to Section 471.023, F.S., the practice or offer to practice engineering or engineering services to the public through a business organization, or by a business organization or other person practicing under a fictitious name, is permitted only if the business organization is qualified by a Florida licensed professional engineer. ~~possesses a Certificate of Authorization issued by the Board. In addition, Certificates of Authorization must be renewed every two (2) years, and each business organization issued a Certificate of Authorization~~ A qualifying agent who is the professional engineer qualifying the business organization must notify the Board of any change in the name of the business organization or the business organization's qualifying professional engineer within thirty (30) days of such change.

~~(2)Applications for an initial Certificate of Authorization or notification of the change of name of the business organization or of the qualifying Professional Engineer, shall be made on Form FBPE/030, 04/17, Application for Certificate of Authorization, which is incorporated by reference herein and may be obtained from https://fbpe.org/licensure/application-process/certificate-of-authorization/ or at https://www.flrules.org/Gateway/reference.asp?No=Ref-08595. All applications must be accompanied by the fee as specified in Rule 61G15-24.001, F.A.C.~~

~~(3)Applications for renewal of a Certificate of Authorization shall be made on Form FBPE/031, 06/17, Certificate of Authorization Renewal Application And Instructions, which is incorporated by reference herein and may be obtained from https://fbpe.org/licensure/application-process/certificate-of-authorization/ or at https://www.flrules.org/Gateway/reference.asp?No=Ref-08596. All renewal applications must be accompanied by the fee as specified in Rule 61G15-24.001, F.A.C.~~

- Adopted December 29, 2019

THE DISCIPLINARY PROCESS

Common grounds for disciplinary action:

- Having a license to practice engineering revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country, for any act that would constitute a violation of this chapter or chapter 455.
- Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of engineering or the ability to practice engineering.

Administrative Disciplinary Proceedings

The courts have recognized proceedings against your license to practice to be "penal" in nature. This means that the law recognizes that a licensee has many (but not all) of the rights of a criminal defendant, such as the right to remain silent, the right to confront witnesses, and the right to review any evidence against you.

What can the Board do to you for a violation?

- When the board, or the department when there is no board, finds any person guilty of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:
  a. Refusal to certify, or to certify with restrictions, an application for a license.
  b. Suspension or permanent revocation of a license.
  c. Restriction of practice.

What can the Board do to you for a violation?

d. Imposition of an administrative fine not to exceed $5,000 for each count or separate offense.

e. Issuance of a reprimand.

f. Placement of the licensee on probation for a period of time and subject to such conditions as the board, or the department when there is no board, may specify. Those conditions may include, but are not limited to, requiring the licensee to undergo treatment, attend continuing education courses, submit to be reexamined, work under the supervision of another licensee, or satisfy any terms which are reasonably tailored to the violations found.

Disciplinary Process

§455.225, F.S., Disciplinary proceedings.–

- A complaint is legally sufficient if it contains ultimate facts that show that a violation of this chapter, of any of the practice acts relating to the professions regulated by the department, or of any rule adopted by the department or a regulatory board in the department has occurred.
- The department may investigate an anonymous complaint if the complaint is in writing and is legally sufficient, if the alleged violation of law or rules is substantial, and if the department has reason to believe, after preliminary inquiry, that the violations alleged in the complaint are true.

Disciplinary Process

- When an investigation of any subject is undertaken, the department shall promptly furnish to the subject or the subject's attorney a copy of the complaint or document that resulted in the initiation of the investigation.
- **The subject may submit a written response to the information contained in such complaint or document within 20 days after service to the subject of the complaint or document. The subject's written response shall be considered by the probable cause panel.**

Disciplinary Process

- Upon completion of the investigation and pursuant to a written request by the subject, the department shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. The subject may file a written response to the information contained in the investigative file.
- **Such response must be filed within 20 days, unless an extension of time has been granted by the department.**

Disciplinary Process

- When its investigation is complete and legally sufficient, the department shall prepare and submit to the probable cause panel of the appropriate regulatory board the investigative report of the department. The report shall contain the investigative findings and the recommendations of the department concerning the existence of probable cause.
- The determination as to whether probable cause exists shall be made by majority vote of a probable cause panel of the board, or by the department, as appropriate.
- All proceedings of the panel and all documents and information obtained during an investigation are confidential only until an investigation ceases to be active. An investigation ceases to be active when the case is dismissed without a finding of probable cause or 10 days after probable cause is found.

Probable Cause Panel Options

- Dismiss the Case.
- Find Probable Cause, Issue an Administrative Complaint.
- Request additional information or investigation.
- In lieu of a finding of probable cause, the probable cause panel, or the department when there is no board, may issue a letter of guidance to the subject.

What are your options?

- **Formal Hearing** before an Administrative Law Judge. Facts in dispute
- **Informal Hearing** before the Board. You admit the facts and argue the law, and/or offer mitigating circumstances
- **Settlement Stipulation**
- **Do nothing** (Default)

What are the best ways to avoid legal and disciplinary problems?

- Become familiar with the laws and rules.
- Renew your license and keep up with your continuing education.
- Respond (timely) to any notice from the Board.

END of Presentation

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