



Maine PE News

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Thoughts While Driving: Follow up on PDH Requirement Discussions

By Mandy Holway Olver

Board Members:

- Mandy Holway Olver, PE, Chair
- Clifton W. Greim, PE, Vice Chair
- Joyce Noel Taylor, PE
- Knud E. Hermansen, PE, PLS, Esq., PhD
- Russell G. Martin, PE, Complaint Officer
- Susan M. Lessard, Public Member
- Brent Bridges, PE

In October, the PE Board held a workshop meeting with stakeholders representing some of the professional engineering organizations that testified during the LD 1165 legislative process. The purpose was to hold an open discussion of the legislation and what these entities thought, as well as to solicit ideas for future updates to the Board Statute and Rules. A couple of points of discussion:

- Those who attended the meeting universally expressed support for continuing the requirement for Professional Development Hours. While people recognize that some PEs take classes just to fulfill the PDH requirement, most people felt this is still a good rule. The sentiment was expressed that the PDH requirement forces busy engineers to take the time to attend classes and conferences. I confess that is true for me; as an engineering consultant, I am forced to self-teach many things to do my job, but I do benefit from outside classes. The feedback on this subject remains mixed, and the Board has not taken any action toward future legislation.
- There is still a lot of misunderstanding regarding separating the taking of the PE exam from the work experience required to become a Professional Engineer. On the national level, this has been termed “decoupling.” Several states have decoupled in anticipation of the PE exam transition to year-round computer-based testing. In a state that has decoupled, graduates of an accredited engineering program are permitted to take the FE exam (formerly known as the EI or EIT exam) and the PE exam at the point after graduation when they think they are prepared. This does not allow them to become licensed as a professional engineer any sooner--they still need to complete the required engineering work experience before applying to become a PE. Proponents of decoupling say that flexibility in taking the PE exam encourages licensure as the national trend is that fewer engineering graduates are becoming PEs. It also allows a person who has years of experience but recently obtained a degree to take the exam upon receiving their degree. Opponents argue that the PE exam is designed to assess practical knowledge after completing the required work experience, and allowing people to take the exam right after the education undermines that purpose. Others argue that if graduates with no experience can pass the exam it would indicate that the exam and perhaps the exam system is flawed. NCEES statistics show that taking the PE exam prior to obtaining three years of experience results in a significantly lower pass rate.

Again, we welcome input from all as we continue this conversation.

On a related subject, it is time to renew your PE license! All licenses expire December 31, 2017, so please get those last few PDHs and renew! We hope you take time to enjoy the Holiday seasons and send best wishes for the upcoming New Year.

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FE Exam Results Jan 2017 to Jun 2017

These individuals successfully passed the FE exam between December and June, 2017.
The FE exam is a computer-based examination offered year-round at PearsonVue testing centers.

Ehssan Amir Sayyafi	Aaron Collinsworth	Kendra Fox	Tyler Kenney	Sean Murphy	Adam Simpson
David Austin	Thomas Cormier	Pascal Francis-Mezger	Anthony Kingston	Antonio Naranja	Benjamin Sirois
Andrew Ballantyne	Ethan Davidson	Leo Gaghan	Evan Klein	McKenzie Parker	Sarah Small
Mitchell Berlandy	Nathan Dee	Nickole Gagne	Victoria Landl	Joshua Patnaude	Benjamin Smith
Colton Bernier	Tyler DeFosse	Alyssa Gartley	Samuel Landry	Mary Prescott	Reagan Smith
Keith Berube	Spencer Desrochers	Mark Gillis	Colin Leary	Jeffrey Pulver	Elin Sonesson
Jordan Bleakney	Savannah DeVoe	Christopher Gleason	Justin LeClair	Andrew Purgiel	Anthony Stohlberg
Michael Bleier	Trevor Diemer	Emily Glennon	Devon Logie	Abdelaziz Rhazzali	Katherine Swenson
Spencer Boonstra	Emily Doyon	Kyle Guerrette	James Manahan	Shannon Rice	SamuelTerry
Casey Briggs	Nicole Dyer	Dante Guzzi	Kayla Marquis	Andrew Roberts	Leyna Tobey
Jacob Bucklin	Ryan Edwards	Matthew Haws	Cecelia McEachern	Jason Robinson	Meghan Trahan
Cole Campbell	Feras Elyounis	Trevor Henry	Arden McSwain	Christopher Roderick	Tyler Turcotte
Shuqi Chen	Austin Fagan	Andrew Heon	Stacy Meister	Andrew Rogers	Jay Wegner
Kevin Clark	Eric Farnsworth	Ethan Howatt	Robert Moore	Benjamin Rossi	Katherine Wight
Morgan Clements	Petar Filipov	Tucker Jones	Hannah Morgan	Benjamin Shaw	Rex Wilkinson
Alison Coffey	Samantha Foote	Ariel Kaplan	Ross Mower	Cody Sheltra	Blaine Williams

Congratulations to those who passed the April 2017 SE Exam

Shaun Bush

Congratulations to those who passed the April 2017 PE Exam

Pawel Bronski	Steven Blake	Craig Sullivan	Liam Kalloch
Nicholas Dutil	Erika Stewart	Heather Hayes	John Skelley
Pradeep Maurya	Brandon Hardy	Leila Pike	Stephanie Beadle
Julianne Page	Christopher Sawyer	Stephen Bates	Timothy Kelley
Benjamin Cynewski	Homam Isleem	Thomas Rolfson	
Jose Noriega	Robert Miller	Katy Bouchard	
Brandy Piers	Seth Swanberg	Ryan Gibbs	
Michael Gallagher	Daniel Bouchard	Graham Carr	
Aulent Timko	William Lindecamp	Adam Greenlaw	



Approved seal format

Reporting Discipline from Other Jurisdictions

By Knud E. Hermansen, PE, PLS, PhD, Esq.

If a professional engineer licensed in Maine is disciplined in any other jurisdiction, the professional engineer has a duty to notify the Maine State Board of Licensure for Professional Engineers within 30 days of final action on that discipline:

“Licensees shall notify the Board of any discipline in any other jurisdiction within 30 days of final action.” 02-322 C.M.R. ch. 2 (5)(4). (Please note that reporting is required upon “final action,” which is the imposition of discipline, not the filing of a complaint.)

The rules also require self-reporting if the engineer is convicted of a crime in any jurisdiction:

“Licensees shall notify the Board of any criminal conviction within 30 days of final adjudication.” 02-322 C.M.R. ch. 2 (5)(4).

Licensees are often reluctant to report discipline to other states, because they fear that additional discipline may result. The response to reported discipline is jurisdiction-specific. However, there are no exceptions to the requirement to report. Self-reporting of discipline imposed by a licensing board is mandatory in all jurisdictions in which the professional engineer is licensed.

Where discipline is imposed on a PE licensed in multiple jurisdictions, the responses in other jurisdictions may vary widely. For example, assume a licensed PE is sanctioned in State A, where the offense occurred. The PE then reports that discipline in States B, C, and D where they are also licensed. State B decides to simply file the report, since those actions are not a violation of State B statute; State C files a complaint and imposes a comparable sanction; while State D files a complaint and seeks much greater sanctions.

The Maine PE Board will impose discipline when it is appropriate, but carefully considers the facts in each case before making that determination.

If the violation that occurred in the other jurisdiction would not be a violation of Maine law or rules, Maine does not impose discipline. For example, many jurisdictions require that engineers or engineering firms have a certificate of authorization (COA) to practice. A licensed PE without a current COA may be disciplined for working in such a state. Since Maine does not require a COA, it is not a violation of Maine law and Maine will not impose discipline. However, failure to report the discipline to the Maine Board within 30 days is a violation that could result in discipline.

If a PE practices in a state that has discipline-specific licensure and they practice, even competently, outside the specified discipline on their license (e.g., civil PE practicing structural), they could be disciplined in that state. But Maine would not likely discipline, because Maine does not have discipline-specific licensure and the facts here indicate competence. Under Maine statute, a PE can practice in any engineering discipline in which they are competent. However, if it was established that the PE was practicing outside of their competence, it is likely the Maine Board would file a complaint.

The Maine PE Board is also less likely to discipline the self-reporting PE if the infraction, while also a violation of Maine law or Rules, is perceived to be adequately disciplined by another Board, and had not harmed and would not likely harm the public. For example, assume a jurisdiction fines a PE \$200 for failing to complete sufficient professional development hours prior to license renewal. The Maine Board may decide that is a sufficient penalty for the infraction as long as the PE completes all required PDHs in time for licensure renewal in Maine.

Similarly, if a criminal charge is unrelated to the practice of professional engineering, it is unlikely to result in discipline in Maine. While several states relate a criminal OUI to the judgment required of a PE and impose discipline, the Maine PE Board has not imposed discipline in such cases.

Of course, there are situations where the Maine PE Board would be likely to consider imposing discipline on the self-reporting engineer. For example, assume a PE has informed the Maine PE Board that their license was revoked in another state for issuing design plans that were in part false and in part deficient to the extent the plans would jeopardize the public's safety. Based on the findings in the other jurisdiction, the Maine PE Board would consider revoking the engineer's license to avoid the risk of harm to Maine citizens.

If a PE reports prior discipline, the Maine PE Board will analyze the facts and the law on a case by case basis before determining what, if any, action to take. Additional discipline should not be presumed.

NCEES Annual Meeting Notes

NCEES held its 2017 Annual Meeting in August. An amendment to Position Statement 35 was approved. PS 35 requires 30 credits of additional education after a BS degree prior to licensure.

When first adopted into the Model Law in 2007 it was called “Model Law Engineer 2020” after the year it was to be implemented. Supporters had spent years advocating that engineering competency

required education beyond the BS degree.

By 2014, not a single board nationwide had taken steps toward implementing MLE 2020, so the board administrators moved to delete it from the Model Law. MLE 2020 was removed, but the language came back the next year as a policy statement.

In 2015, PS 35 was adopted, using the language of MLE 2020, ostensibly to mollify

those who were disappointed by its removal from the Model Law. The revisions proposed and adopted in 2017 permit alternative pathways to the educational requirements are outlined in PS 35. This new language is clearly designed to overcome previous objections to MLE 2020.

The Maine PE Board has consistently opposed the imposition of unnecessary additional education on prospective li-

cencees. The added expense of two additional years of education, no matter what form it takes, combined with the delay in licensure, creates a significant barrier to entry into the profession. And the FE and PE exam scores in Maine do not indicate that students are coming out of their bachelor’s programs any less prepared than they were a decade or more ago. Clearly, there will be more heard on this subject.

*“The University of
Maine’s surveying
engineering technology
program is impressive.”
Joseph Paiva, Ph.D.,
P.E., P.S.*

Maine Surveying Engineering Technology Wins NCEES Award

The UMaine Surveying Engineering Technology program was awarded the \$25,000 grand prize in the 2017 NCEES Surveying Education Award.

The NCEES Surveying Education Award recognizes surveying/ geomatics programs that have a broad and robust curriculum and best reflect NCEES’ mission to advance licensure for surveyors in order to safeguard the health, safety, and welfare of the public. The award is intended to encour-

age programs to engage their students with other professionals, introduce them to both historical and new technology, and promote licensure.

NCEES Surveying Education Award juror and president-elect of the Surveyors and Geomatics Educators Society (SaGES), Joseph Paiva, Ph.D., P.E., P.S., stated, “The University of Maine’s surveying engineering technology program is impressive because it fosters the surveying profession in

state, regionally, and nationally.” Six additional prizes were awarded to qualifying programs to assist with each program’s continued efforts to promote the importance and value of surveying licensure. The award jury considered criteria such as student outcomes and involvement, outreach and recruitment, and the promotion of licensure. The award jury met June 15, 2017, in Clemson, South Carolina, to select the winners.

Meet Board Member Brent M. Bridges, PE



Brent Bridges, PE, is a Senior Principal at Woodard & Curran, a 900-person environmental consulting and operations firm headquartered in Portland, Maine.

Brent has over 30 years of experience in construction management of civil and environmental engineering projects, primarily in wastewater and water. Brent specializes in developing infrastructure pro-

jects by identifying deficiencies a municipality may have, presenting solutions, and working with funding agencies, town staff, and elected officials to secure funds that support improvements to infrastructure.

Brent graduated from the University of Maine Civil Engineering program.

He has served as: President of Portland Trails, a non-profit land trust; Board member and

Chair of the Building and Grounds Committee of the Bangor YMCA; and was on the Board of Directors for Woodard & Curran for 9 years.

Brent is a member of the Northern New England Society for Marketing Professional Services and is on the Dean’s Advisory Council for the University of Maine College of Engineering.

To Be Or Not To Be — Competent, That Is.

In public discussions related to legislation submitted earlier this year some Professional Engineers (PE), while arguing for increased restrictions on licensure, claimed that they “knew of” individuals who were violating the professional engineering statute by performing work for which they were not competent.

It was concerning to hear that a PE might be aware of another PE who is working beyond or outside of his or her competence. It's concerning because practicing outside of your competence and failing to report such a violation are both violations of the professional engineering statute.

If the claims were not hyperbole, a Licensee who is aware of incompetent practice but does nothing is not fulfilling their primary obligation as a licensed professional to protect the public health and welfare. (See 10 M.R.S.A. § 8008 and 02-322 C.M.R. ch. 4 (2)(1)).

The Licensee's obligation to protect the public trumps every other responsibility, including loyalty to an employer, client, friends, or colleagues. All other obligations are secondary to the responsibility as a licensed professional to protect the health, safety and welfare of the citizens of Maine.

That does not mean that every situation requires a written complaint. As long as there has been no harm, the obligation to protect the public may be met by simply fixing the problem. For example, an improperly stamped plan can be corrected. A brief instruction may inform a colleague about an error that can then be remedied. A PE with a medical or mental health issue can be guided to proper care. A timely reminder may be sufficient to correct a problem.

If, however, someone becomes aware of a serious issue of competency that puts the health, safety or welfare of Maine citizens at risk, that person should submit a signed, written complaint to the Board, along with any supporting evidence they have.

Minimum competency is the standard by which the State measures the qualifications of Professional Engineers. The minimum combination of qualifications necessary to keep the public safe is codified in legislation, and revised when needed. Current qualifications require an approved four-year degree, passing results on both the FE and PE or SE exams, and depending on the degree, either four or eight years of engineering work experience.

For purposes of licensure, that minimum competency standard does not change to a “best practices” standard once someone is licensed. There isn't one standard for the first year and a second standard for the fifth year and yet a higher standard for the tenth year. There is only one standard – minimum competency.

Occasionally there are claims of a need to “raise the bar” or to “maintain the integrity of the profession” by increasing the qualifications used to measure minimum competency. The net effect of those proposals would often be to limit access to the profession, create barriers to licensure, limit the number of licensed professionals, and ultimately increase costs for consumers.

In considering the standards for minimum competency, each of us must recognize that our cognitive biases cause us to misremember our younger selves as smarter and harder working than we ever were. That can lead to unnecessary regulation and additional obstacles to licensure. The function of the Board is to protect the public, not to restrict access to the profession or to protect licensees from competition. The standard of minimum competency is the answer to the question of what the minimum qualifications should be to assure the health, safety and welfare of the public. One thing to keep in mind is that if the bar gets raised too high, people will simply walk under it.

Unlicensed Practice

The Maine State Board of Licensure for Professional Engineers (“Board”) occasionally receives complaints alleging that an unlicensed person is practicing or offering to practice professional engineering. This article will examine some of the challenges of investigation and enforcement regarding unlicensed practice.

The PE Board was established by legislation, and operates under the Executive Branch. It is affiliated with the Department of Professional & Financial Regulation, but retains a great deal of operational autonomy. Since legislation created and vested the Board with its authority, legislation can also change or eliminate the Board’s authority. The Board’s primary function is public safety, not the protection of the profession:

“The sole purpose of an occupational and professional regulatory board is to protect the public health and welfare. A board carries out this purpose by ensuring that the public is served by competent and honest practitioners and by establishing minimum standards of proficiency in the regulated professions by examining, licensing, regulating and disciplining practitioners of those regulated professions. Other goals or objectives may not supersede this purpose.” 10 M.R.S.A. § 8008 (emphasis added)

Maine statute grants the Board jurisdiction over “Professional Engineers.” Maine statute defines a Professional Engineer as “a person who, by reason of a knowledge of mathematics, the physical sciences and the principles of engineering, acquired by professional education and practical experience, is qualified to engage in engineering practice as defined.” 32 M.R.S.A. § 1251(4).

The “Practice of Professional Engineering,” is defined as “any professional service, such as consultation, investigation, evaluation, planning, design or responsible supervision of construction in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works or projects, wherein the public welfare or the safeguarding of life, health or property is concerned or involved, when such professional service requires the application of engineering principles and data.” 32 M.R.S.A. § 1251(3).

The requirement for licensure in order to be allowed to perform professional engineering in Maine reads: “In order to safeguard life, health and property, any person practicing or offering to practice the profession of engineering is required to submit evidence of qualification to practice the profession of engineering and must be licensed as provided. It is unlawful for any person to practice or to offer to practice the profession of engineering in the State or to use in connection with the person’s name or otherwise assume, use or advertise any title or description tending to convey the impression that the person is a professional engineer, unless that person has been duly licensed or exempted under this chapter.” 32 M.R.S.A. § 1351.

However, Maine statute does not give the Board jurisdiction over every use of the terms “engineer” or “engineering.” Therefore, there are many uses of those terms that are not protected under the statute.

The issue with regard to titles is whether they tend “to convey the impression that the person is a professional engineer.” 32 M.R.S.A. § 1351. For example, someone who states they are a “stationary steam engineer,” a “train engineer,” a “maintenance engineer,” “flight engineer,” or any one of a host of other job titles or job descriptions that contain the word “engineer” or “engineering” but clearly do not practice professional engineering as defined in the statute, would not be in violation of the statute. A company with the word “engineering” in the title would not be in violation unless a reasonable person would interpret that use as indicating that the company offered professional engineering services.

A plumber who calls himself a “Plumbing Engineer” and has a business card published in the annual meeting brochure of his national organization will not be presumed automatically to be soliciting business in Maine if they have only an out-of-state address and phone number. There would need to be some evidence that those services were being offered or provided in Maine.

A business card of a person that identifies a licensed Professional Engineer as her employer, and includes her name and lists her B.S. in civil engineering would not likely be a violation since it is apparent that any solicitation of engineering services accomplished using the card is for her employer who is properly licensed.

The statute contains a number of exceptions to Professional Engineering licensure. For example, there is an exemption for public

By Knud E. Hermansen, PE, PLS, PhD, Esq. and David Jackson, Esq.

works projects costing up to \$100,000 as long as the project both as performed and as completed does not “create an undue risk to public safety and welfare.” That said, the Department responsible, or the Code Enforcement Officer, can still require the use of a Professional Engineer. (See 32 M.R.S.A. § 1254).

There are other exemptions for farm buildings of a certain size, and plumbing and electrical system revisions under \$10,000, and so forth. Some of the complaints the Board receives fall squarely under an exemption and are therefore dismissed. (See 32 M.R.S.A. § 1255).

A firm that calls itself XYZ Residential Engineering may not be violating the statute since one and two-family residences are exempted under the professional engineering statute, and as long as they perform only residential work, they likely will remain exempt.

If XYZ decides to perform commercial work, or if a Code Enforcement Official determines that professional engineering services are required because of special circumstances, XYZ can contract those services and not be in violation. The Board may ask the company to prominently identify on its website and literature who the Professional Engineer is who will be performing the work.

However, an unlicensed person who actually offers or provides professional engineering services within the state of Maine may be in violation of the professional engineering statute, no matter what they call themselves.

A person who is not licensed as a Professional Engineer but who designs an HVAC system for a hospital or other commercial building may fall within the definition of the practice of professional engineering.

One area that creates some confusion is the overlap between licensed professions. The professional licensing statutes protect the practice of other legally recognized professions. The “incidental” practice of other professions while performing your own is permitted. Because the term “incidental” is not quantified, there is no clear bright line for enforcement. It’s helpful to remember that the unlicensed practice statute does not serve as a back door to trade protection. Its purpose is the protection of the public.

There are a number of gray areas that are a basis for complaints. For example, persons offering home inspection services have had complaints filed. Home inspections are not regulated in Maine. In addition, the Board has determined that residential inspections are not normally the practice of professional engineering, and has advised Professional Engineers that the use of their credentials in such circumstances could cause them to be held to a higher level of scrutiny and possible discipline.

If, however, an inspector applies engineering principles and data to reach the conclusions in his report, such as the structural integrity or load-bearing capacity of a foundation, wall, or roof, then the inspector would likely be deemed to be practicing professional engineering and should apply the appropriate seal, signature, and date to his report.

Perhaps surprisingly, complaints of unlicensed practice that do result in fines and penalties often involve formerly licensed Professional Engineers who have allowed their license to lapse while continuing to engage in professional engineering practice or consulting. The Professional Engineer that sent a proposal for an engineering design on 14 January after their license lapsed on 31 December and failed to renew their license until 24 January is likely guilty of unlicensed practice.

When a written, signed complaint is received, the Board will investigate. After investigation, the Complaint Officer makes a presentation to the Board with the Committee’s recommendation. The Board then decides if the complaint deals with the practice of professional engineering. If it does not, the complaint is dismissed. Next, the Board determines if the person identified is licensed. If not, the complaint will also be dismissed. The Board does not have jurisdiction over anyone who is not licensed. Therefore, once the complaint is dismissed the matter is referred to the Office of the Attorney General, which has the statutory authority to deal with these matters once they have been identified.

Please consider the information in this article before making a written, signed complaint to the Board regarding unlicensed practice. Professional Engineers have a duty to prevent harm to the public caused by unlicensed practitioners. The Board appreciates the time and effort required to make a complaint, treats each complaint seriously, and will take action within the limits of its authority.

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RENEWAL TIME IS HERE!

All Maine PE licenses expire DEC 31, 2017

Renew your license online **before DEC 31.**

You need the following to renew:

1. Full name of licensee
2. License number
3. 30 PDHs (only submit docs if audited)
4. Renewal fee: \$80.00 (Amex, Visa, MasterCard)

Access the renewal from the Board web page.