

NON-CIRCULATING



TEXAS STATE BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS

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NEWSLETTER

DONALD C. KKEIN, P. E.
EXECUTIVE DIRECTOR

August, 1979

SURVEYING REGISTRATION REQUIRED FOR TEXAS ENGINEERS

On June 13, 1979, the Governor signed into law Senate Bill 313, the Land Surveying Practices Act of 1979, which created the new Texas Board of Land Surveying. More importantly, the Act requires all registered professional engineers who desire to practice land surveying to obtain registration from the new board. Special provisions were incorporated for only those Texas engineers who are qualified and have been practicing surveying under their engineer's license prior to this enactment. In essence, this is a "grandfather" provision, and the specific stipulations affecting engineers are quoted from the law as follows:

Section 14(b): "Any person holding a valid license on the effective date of this Act from the State Board of Registration for Professional Engineers who has been engaged in the practice of surveying for a period of not less than one year immediately preceding the effective date of this Act may apply for registration as a public surveyor within a period of one year from the effective

date of this Act and on payment of the registration fee shall be registered as a public surveyor. The Texas Board of Land Surveying and the State Board of Registration for Professional Engineers shall determine whether an applicant qualifies for registration under this subsection. If the boards disagree about whether an applicant qualifies for registration under this subsection, the decision of the State Board of Registration for Professional Engineers controls."

Section 14(c): "All persons registered or licensed under this section are presumed to be qualified as long as they annually renew their certificate of registration or licensure as required under this Act."

All interested engineers who qualify under the above provisions should immediately write to the Texas Board of Land Surveying, 5555 N. Lamar, Suite H-109, Austin, Texas 78751, and request the appropriate application form and instructions. To reiterate, there is

only **one year**, from June 13, 1979, in which to make application for registration as a public surveyor under the "grandfather" provisions. All other individuals must apply under the provisions of Section 15 of the new Act, which includes the successful passing of written examinations.

The Texas Board of Land Surveying is in the process of reorganizing with public members, promulgating new rules and procedures, and preparing to manage the expected deluge of applications from engineers. The June 13 effective date of the law, nearly three months prior to the end of the fiscal year, has hampered the new Board in implementing their new statute. Thus, we urge your patience and understanding. At this writing, the expected application fee will be \$50. Renewals may also be about \$50. New registrants will be subject to ethical standards of conduct and competency as established and administered by the Texas Board of Land Surveying.

THE 1980 ROSTER

The next roster of engineers will be published as of January 1, 1980. As provided in Section 11 of the practice act, the Board will publish a roster only once every two years. The effectiveness of the roster to the public, other registrants and interested agencies is relatively diminished by the absence of listings for engineers who have allowed their certificates of registration (licenses) to lapse. These same missing names cause unnecessary concern to the public and additional administrative work for the Board's staff.

Any registrant whose current license

expires on or before December 31, 1979, and who does not renew that license on or before December 31, 1979, will not be listed in the next roster.

CHECK YOUR POCKET CARD! If your license expiration date is September 30, 1979, or earlier, you may need to take some immediate action towards renewal. Don't confuse your renewal fee with your society membership dues!

Just as this NEWSLETTER was not mailed to any registrant who was not a current licensee on the day the address labels were computer printed, there will be no additional delinquent notices

mailed to any registrant whose license lapsed on or earlier than June 30, 1979. In effect, these individuals must initiate their own license reinstatement. Again, as a reminder, the renewal of the professional license is a personal responsibility, notwithstanding the Board's efforts to make notifications through first class mail to the last known address of record. Practicing without a current license can prove to be not only embarrassing, but monetarily and legally hazardous. Inquiries to the Board concerning an individual's licensure status will be answered with the exact dates that the involved license is valid, or invalid.

NON-CIRCULATING NTSU LIBRARY

SPECIAL NOTICE REGARDING THIS ISSUE

The Board has recently learned that through a series of unfortunate incidents after the NEWSLETTER left this office many registrants did not receive their copies. For their benefit, because the two lead articles in that issue pertaining to continuing education and public Board Members produced so many favorable responses

from recipients, they have been herein reprinted.

The NEWSLETTER is published periodically to provide timely information on a variety of subjects to registrants, and through them to those interested in registration. Reaction to our first NEWSLETTER in July, 1978, was outstanding. Inquiries and comments are always welcomed.

Since the April, 1979 NEWSLETTER did not reach everyone, we are listing the titles of other interesting ar-

ticles which appeared in that issue: Position Paper on HB-893 (The Surveyors Bill), New Board Rules on the review and approval of applications, Supervision of Engineering Construction, Board Meetings Outside Austin, and Canadian Degrees Accepted.

Due to the prohibitive costs of reprinting and mailing the April issue to everyone, available extra copies will be mailed upon request to those who did not receive one, as long as the supply lasts.

MANDATORY CONTINUING EDUCATION FOR ENGINEERS

Mandatory continuing education has been proposed as a means of ensuring that registered professional engineers maintain the level of competence necessary to serve the public properly. In determining its position on the subject, the State Board of Registration for Professional Engineers gave consideration to the following aspects of the question.

Continuing education in some form is a necessity if engineers are to keep abreast of progress in their individual disciplines. Such education can take many forms, including: (1) additional formal education, (2) short courses and seminars, (3) programs sponsored by associations, (4) published literature, and (5) contact with other engineers in the marketplace. Participation in the first three types of continuing education can be easily measured in terms of attendance and certificates or diplomas earned. Participation in the last two, however, cannot be easily measured, although they are both important sources of education which should not be disregarded when evaluations are made.

If continuing education credit is limited to those areas that are easily measured, many engineers will find themselves unable to comply. Additional formal education, short courses and seminars, and programs sponsored by associations simply are not available to large numbers of engineers because they cannot take time off from their work or afford the expense of travel to locations where these programs are available. Employers in remote areas could expect major problems in hiring and keeping engineers unless they could provide expense-paid travel to attend creditable functions. Even then,

employers would be forced to pass on the high cost of such programs, which would mean that the expense would eventually be borne by the public, either through increased prices to cover costs in the public sector, or as increased taxes to cover costs in the governmental sector.

There is already a strong incentive for engineers to maintain a high level of expertise in order to be able to compete in the marketplace, since competition removes those who fail to keep pace in their disciplines. With the wide diversification that now exists in engineering, individual engineers should be allowed to select the sources and procedures which best fit their own personal needs for continuing education without having to be concerned with meeting mandatory rules.

In addition to the approximately 33,000 persons registered to practice as professional engineers in Texas, it is estimated that over 50,000 persons are practicing engineering legally in Texas under the exemptions of Section 20 of the Texas Engineering Practice Act. If our aim is to more adequately protect the public health, safety, and welfare, it would seem more logical to work for tighter controls over those who are presently permitted to practice without having demonstrated their qualifications than to mandate additional qualifications for engineers who have already established their competence by registration and successful practice. After all, requirements for continuing education would have no effect whatsoever on those who are allowed to practice without having established their qualifications to do so.

There is also the possibility that imposing a requirement for continuing

education as a prerequisite for license renewal for persons who have already established their competence would be considered by the courts to be a restriction on their rights to earn their livelihoods. Any proposed legislation should be carefully considered to assure that it would not subsequently be ruled unconstitutional.

The Board now renews the licenses of approximately 33,000 registered engineers yearly, and this number is increasing. It is a continuing job of major proportions for the Board staff to handle the logistics of mailing notices, receiving and depositing monies, and updating permanent records, but if, in addition to those responsibilities, the staff were required to make evaluations of the continuing education submitted by each of the registrants, the costs of the renewal procedure would quickly become exorbitant. If Board Members were required to review and evaluate each submittal, the task would be virtually impossible.

In light of the foregoing considerations, the Board came to the conclusion that mandatory continuing education as a requirement for license renewal would not be practical. The problems associated with such a program would reduce it to a meaningless, expensive, and ineffective gesture. The public would be far better served if the Board could direct the same efforts toward enforcing an Engineering Practice Act that had been expanded by the legislature to cover all engineering performed in the state. By virtue of the reasons herein stated, the Board is opposed to mandatory continuing education for professional engineers.

PUBLIC BOARD MEMBERS

The inclusion of public members on regulatory boards has been proposed as a means of assuring that the boards act to protect the public health, safety and welfare, instead of advancing the professions they regulate. The State Board of Registration for Professional Engineers has considered this proposal to determine its position on this subject.

The Texas Engineering Practice Act requires that an applicant meet certain minimum qualifications of education, experience, or examination before he or she is granted registration as a professional engineer. In order to be registered under Section 12, Subsection (a), an applicant must have an 'approved' degree in engineering and, in addition, four years of experience 'of a character satisfactory to the Board. To be granted registration under Section 12, Subsection (b), an applicant must pass certain examinations and, in addition, have eight years of experience 'of a character satisfactory to the Board. In each instance, the act requires the Board to determine that the work record (experience) of the applicant indicates 'that the applicant is competent to be placed in responsible charge of such work. To assure that the Board is qualified and capable of making this evaluation of the applicant's experience, it is now required that each member of the Board 'shall have been engaged in the practice of the profession of engineering for at least 10 years. Since public members would, by definition, have had no association with the profession for a specified period of time, it is evident that they

could not meet this qualification for determining the adequacy of an applicant's experience.

If the public members do not have the qualifications necessary to evaluate the work being done by engineers, it would be illogical to permit them to take part in the registration process. Further, this same logic can be applied to the consideration of enforcement matters that involve questions of engineering practice. Thus, the public member(s) would be limited severely in taking an active part in Board deliberations. In fact, they would in essence become Board observers except for overseeing office procedures and establishing administration policies.

If the public members were to replace one or more of the present professional members, the efficiency of the Board would be decreased considerably. The evaluation of the qualifications of applicants is the sole responsibility of the Board Members and it constitutes a heavy work load for each Board Member in terms of actual hours of time. Further, this work is done outside of regular Board meetings and it is work for which the Board Members are not compensated. Decreasing the number of professional members by substituting public members would increase this work load. This would result in delays in acting on applications or it would reduce the thoroughness with which applications are reviewed. In either case, the result would be detrimental to the public.

If the public members were added as an addition to the present professional members of the Board, they would not hinder the operation of the Board. They would be able to evaluate the extent to which the Board is complying with the requirements of the act to pro-

tect the public health, safety and welfare. With the information that would be gained, the public members could be excellent public relations persons to enhance the public image of the Board and the profession. This, however, would not provide any benefits to the public that are not already available.

The Board meetings for this agency are open to the public as required by law. In addition, regular quarterly Board meetings are scheduled in various cities in the state other than Austin on alternate meeting dates. This is specifically designed to afford easier access to Board meetings by the public. Also, members of the Board and members of the staff are active in seminars, group meetings, speaking engagements, etc. to assist the public in understanding the requirements of the Texas Engineering Practice Act and the procedures to follow if they have a complaint against a registrant. The public would be served better by spending the monies that would be required to support public members to increase this type of program of public information.

In summary, the inclusion of public members on the State Board of Registration for Professional Engineers would not provide additional protection to the public health, safety and welfare. We welcome public scrutiny, which is already available to interested parties without any additional expense. The addition of public members would necessitate the expenditure of budgeted funds that could better be spent on far more effective programs. For these reasons, the State Board of Registration for Professional Engineers is opposed to the addition of public members.

UNNECESSARY INVESTIGATIONS

Many inquiries are precipitated by registrants who leave one firm and join or form a new business without notifying the Board of the change. When the new business name comes to the Board's attention as offering engineering services, registration records fail to reveal the responsible engineer. Changes to a registrant's master computer file must be supported by signed authorization from the individual.

OCTOBER BOARD MEETING

Board Members will hold their next quarterly meeting on October 25 (and 26 if needed) in the Houston Oaks Hotel at the Galeria. All interested persons are invited to attend, to meet the Members and key staff personnel, and discuss matters of concern. Any lengthy presentation by an individual or group should be cleared through the Executive Director for consideration of time on the agenda.

Construction schedules have slipped and completion of the Board's new facility is apt to be in September, and hopefully no later than October. The new street and mailing addresses are reflected on the banner of this NEWS-LETTER.

WOULD YOU TESTIFY?

A recent newspaper article by Rich Kirkpatrick of Associated Press, entitled "Testifying splits ranks of doctors," concerns malpractice law suits but brings to mind the general subject of peer complaints for incompetency, negligence and misconduct in the practice of engineering. The article reflects in part "Only a few of the nation's more than 300,000 doctors are willing to testify against one of their own, trial lawyers complain." "It is nearly impossible to find a doctor willing to accuse another of mistakes, lapses or incompetence, lawyers say."

Is this a professional syndrome? Could these things be said of engineers? Board files are full of telephonic and unsworn or otherwise incomplete letters complaining of engineers. A few are from non-registrants; but most are from other engineers who, upon being apprised that due process must be provided at the outset through means of a sworn statement of facts and circumstances, never follow through.

We might presume that a few complaints were not well founded or thought out to begin with, while others may have been resolved between the disagreeing parties. We might also presume that many individuals don't want to "get involved," as experience tends to show that complaints only come about when the complainant is injured monetarily.

The Kirkpatrick article also reflects that some doctors act "out of conscience," and one was quoted as saying, "I've lost practice, there's no

question about it, but I feel better, I would feel awful if I saw some of these things that are so horrendous and did nothing about them."

Engineers have long been held to be in a self-policing profession. The final sentence in the preamble to the Code of Responsibility for Professional Engineers states that "each engineer must find within his own conscience the touchstone against which to test the extent to which his actions should rise above the minimum standards set forth in the Disciplinary Rules." When an engineer is unwilling to do this, and his conduct shakes the public's confidence and jeopardizes the integrity of the profession, his peers are obligated under Canon VI of the Code to insure that "show cause" procedures are initiated. Properly shown complaints with merit can become viable actions of the Board under its authority to protect the best interests of the public. Section 22 of the practice act and Board Rule .12.044(a) provide for the initial due process steps.

BOARD RULE CHANGES

The Board will make its final determination to change two rules dealing with the registrant's name on the seal, and a new recognized branch of engineering, respectively. Comments, pro and con, should be sent to the Board for consideration.

Rule .09.008(a) will be changed to read: "The use of the FIRST and/or MIDDLE NAME or the initials thereof, or the usual written signature, is at the discretion of the registrant, provided the surname of the registrant ap-

pears on the seal."

Rule .09.003 will be changed to include the branch designation of "(U)" for "Manufacturing" engineering. This is prompted by the availability of Principles and Practice Examinations being provided by the National Council of Engineering Examiners.

POTPOURRI

The City of El Paso initiated an exemplary policy in June not to accept architect seals on engineering drawings, nor engineer seals on architectural drawings before issuing a building permit in deference to state law.

Engineered roof supporting "members" referred to in Sec. 20(f) of the engineering practice act is interpreted by the Board to include **all** supporting members from trusses to the grade beams or comparable foundations.

Does it bother you to see the word engineers in the name of a neighborhood beauty parlor? Would it bother you to have known of the construction of a non-exempt commercial building which lacked engineering design and inspection to determine compliance with drawings and specifications, and which collapsed, killing two? Consider the public harm when filing complaints with the Board!

The Board has six matters pending in local courts: 2 are for injunctions, 2 involve the forgery of engineer seals, and 2 involve perjury by applicants for registration. Three additional forgery matters are under investigation. James Bradstreet of the Houston-Harris Company recently pled no contest, was found guilty and fined \$200 for forging an engineer's seal.

FROM
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