

**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**CRAWFORD C. MARTIN
ATTORNEY GENERAL**

January 8, 1970

Honorable Donald C. Klein, P.E.
Executive Director
Texas State Board of
Registration for Pro-
fessional Engineers
1400 Congress
Room 200
Austin, Texas 78701

Opinion No. M-548

Re: Whether the substitution
of the word "affirmed" for
"sworn upon oath" meets
the legal requirements of
Section 13 of the Texas
Engineering Practice Act.

Dear Mr. Klein:

In your recent letter, you presented the following
factual information:

"In a recent application to your Board for
registration as a Professional Engineer, an applicant
changed the wording of the required affidavit by
crossing out 'sworn upon oath' and wrote in the
word 'affirmed.'"

You requested an opinion from this office to advise you
whether the substitution of the word "affirmed" for "sworn upon
oath" meets the legal requirements of Section 13 of the Texas
Engineering Practice Act, Article 3271, Vernon's Civil Statutes.

67 Corpus Juris Secundum 4, Oaths and Affirmations,
Section 2 states:

"An oath is an appeal by a person to God to
witness the truth of what he declares and an impreca-
tion of Divine punishment or vengeance on him if
what he says is false, and its purpose is to secure
the truth...."

Section 3 reads:

"An affirmation is a solemn and formal declaration or assertion that an affidavit is true, that the witness will tell the truth, etc., this being substituted for an oath in certain cases."

Section 6, subsection b says:

"Effect should be given to constitutional or statutory provisions that an oath or affirmation shall be administered in the mode most binding on the conscience of the person sworn in...."

"....An affirmation, instead of an oath may be taken where the case falls within the scope and meaning of a constitutional or statutory provision permitting it...."

The Texas Engineering Practice Act requires in Section 13 that "Applications for Registration...shall contain statements made under oath, showing the applicants education...."

Article 23 of Vernon's Civil Statutes, Definition No. 4, provides that "Oath" includes Affirmation. Also, according to Definition No. 5 of Article 23 "swear" or "sworn" includes "affirm." Definition No. 18 of Article 23 says: "Affidavit means a statement in writing of a fact or facts signed by the party making it, and sworn to before some officer authorized to administer oaths..." (Emphasis added.)

Article 25, Vernon's Civil Statutes, reads as follows:

"All oaths and affirmations shall be administered in the mode most binding upon the conscience of the individual taking same and shall be subject to the pains and penalties of perjury."

Section 5 of Article I of the Constitution of Texas reads as follows:

"No person shall be disqualified to give evidence in any of the Courts of this State on account of his religious opinions, or for the want of any religious belief, but all oaths or affirmations shall be administered in the mode most binding upon the conscience, and shall be taken subject to the pains and penalties of perjury."

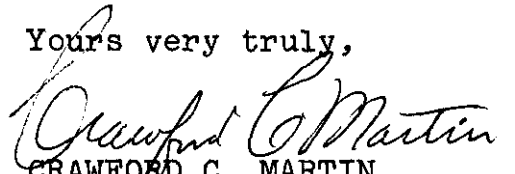
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The answer to your question must be made in the affirmative.

S U M M A R Y

An application for registration as a Professional Engineer in the State of Texas meets the legal requirements of Section 13 of the Texas Engineering Practice Act when the applicant changes the affidavit therein by marking out the words "sworn upon oath" and writing in their place the word "affirmed".

Yours very truly,


CRAWFORD C. MARTIN
Attorney General of Texas

Prepared by Sam L. Jones, Jr.
Assistant Attorney General

APPROVED:
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