The Ethical Practice of Engineering: Case Studies from Administrative and Court Actions
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If you are the subject of an administrative or court action, consult with an attorney.

Presentation Overview
• Minnesota Rules
  – Licensure
  – Practice
• Administrative Actions
  – Minnesota
  – Other jurisdictions
• Court Actions
Minnesota Statutes § 326.02, subd. 3

- Any person shall be deemed to be practicing professional engineering . . . who holds out as being able to perform . . . any technical professional service, such as planning, design or observation of construction for the purpose of assuring compliance with specifications and design . . .

- . . . In connection with any public or private . . . utilities . . . or projects wherein the public welfare or safeguarding of life, health, or property is concerned or involved . . .
Minnesota Statutes § 326.02, subd. 3

- In connection with any public or private utilities or projects wherein the public welfare or safeguarding of life, health, or property is concerned or involved
- when such professional service requires application of principles of mathematics and the physical and applied engineering sciences

Minnesota Statutes § 326.02, subd. 5

- The provisions of sections 326.02 to 326.15 shall not apply to any standardized manufactured product

Minnesota Statutes § 326.107, subd. 1

- PDHs in a two-year period
- Professional Engineers = 24 hours
- Carryover of 50% permitted
- 2 hours of professional ethics and not eligible for carryover
Continuing Education Requirements

- Minn. Stat. § 326.107, subd. 2
  - Defines what qualifies for PDHs
  - Identifies qualifying activities
- Minn. Stat. § 326.107, subd. 3
  - Criteria for courses and activities
- Minn. Stat. § 326.107, subd. 7
  - Recordkeeping and Reporting

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Board Resources for Continuing Education

- [http://mn.gov/aelslagid/conted.html](http://mn.gov/aelslagid/conted.html)
- [http://mn.gov/aelslagid/cedocumenting.xls](http://mn.gov/aelslagid/cedocumenting.xls)

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Minnesota Rules 1800.0050-1800.0900

- General licensure rules
- Licensees must cooperate with Board requests
- Basic requirements for licensure in MN
  - Examination OR
  - Licensure in another state
    - Any plans signed while comity application is pending must state such
    - Minnesota does not require use of a seal

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Minnesota Rule 1805.0100

- Rules of Professional Conduct
  Each licensee . . . is charged with knowledge of this rule. In the exercise of the privileges and rights granted by the certificate of licensure, the licensee shall conform professional conduct . . .

Minnesota Rule 1805.0200

- Personal Conduct
  - Avoid acts to diminish public confidence in the profession
  - Not submit materially false statement connected to any application for licensure in MN or any other state
  - Not further application for licensure of person known to be unqualified

Minnesota Rule 1805.0200, Subp. 4

- Licensee shall not:
  - Circumvent professional conduct rules through actions of another
  - Engage in illegal conduct/moral turpitude
  - Engage in dishonest, fraudulent, deceitful, or misrepresentative conduct
  - Engage in conduct reflecting adversely on licensee’s fitness to practice
  - Permit licensee’s name/seal to be used on plans/specifications/documents not prepared by or under direct supervision
Minnesota Rule 1805.0300

- Conflict of Interest
  - Employment
  - Compensation
  - Gifts

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Minnesota Rule 1805.0400

- Improper Solicitation of Employment
  - Only work for which licensee is competent and qualified
  - Licensee shall not misrepresent education, training, experience, or qualifications
  - Licensee shall not transmit . . . misleading information on licensee’s qualifications
  - Licensee shall not pay/gift anything of substantial value to secure employment

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Minnesota Rule 1805.0500

- False or Malicious Statements
  - Licensee shall not make false or malicious statements that may injure the personal or professional reputation or business of another licensee.

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Minnesota Rule 1805.0600

- Knowledge of Improper Conduct by Others
  - Licensees have a duty to report another licensee’s violation of any statute or rule that regulates the practice of the profession

Minnesota Rule 1805.0700

- Action by Other Jurisdiction
  - A licensee convicted of a felony or another state’s revocation of licensure . . . is deemed a violation of the Minnesota rules of professional conduct
  - A determination by a court that licensee is mentally incompetent shall be deemed incompetent to practice . . .
Reporting Another Licensee or Business

- Cannot be anonymous
  - Unless the information supporting the complaint is publicly available
  - If it is, the Exec Director (Doreen Frost) of the Licensure Board can make the complaint
- Must include:
  - Identity of person complaint is against
  - Surrounding circumstances
  - Specifics of the complaint
  - Documentary evidence (if available)

Complaint Process

- Overview
  - http://mn.gov/aelslagid/complaints.html
  - Does not include every step of the process

Disciplinary Actions

- Differ by state
- Some examples:
  - Suspend or revoke a license
  - Civil penalties
  - Fees for costs of proceedings
  - Community service
  - Education
Administrative Actions

- Minnesota
- State Survey
  - New York
  - Oklahoma
  - Wyoming

Minnesota – Expiration

- 2011-0065
  - 6-month lapse in license
  - Self-reported
  - Reprimand/$3,000 fine
- 2015-0030
  - 6-month lapse in license
  - Self-reported: email signature block included name followed by "PE"
  - Held employment that required PE
  - Reprimand/$5,000 fine

Minnesota – Other

- 2012-0046
  - Delinquent state taxes
  - Revocation until current and asks for reinstatement
New York

- 25622: NYS Office of the Professions
- Claimed Violations
  - Fees from third party
  - Failure to maintain records
  - Lapse in registration
- Action
  - 12-month suspension
  - 2 years probation
  - 100 hours public service
  - $20,000 fine

Oklahoma

- 2009-11
- Claims
  - City of Tulsa Field Manager
  - Conspiratorial behavior with private contractors
  - Participated in fraud Pled guilty to felony charges in US District Court
- Action
  - Revocation of License
  - $40,000 in Civil Penalties
  - Revocation of License in Wyoming

COURT ENFORCEMENT
Moransais v Heathman, 744 So.2d 973 (1999)

- **Parties**
  - Moransis – Buyer
  - Heathman – Seller
  - Bromwell & Carrier – PE Inspector

- **Facts**
  - Moransis hired Bromwell for inspection
  - No defects in report
  - Moransis uncovered defects after purchase
  - Bromwell not party to Purchase Agreement

Moransis

- **Disposition**
  - Defects of the time discoverable during inspection
  - FL law holds professionals liable for negligent acts
  - Liability regardless of whether they signed the contract

United States v. Wynn, 684 F.3d 473 (4th Cir. 2012)

- **Parties**
  - Wynn – Eng’r for runway plan
  - Talbert & Bright – Wynn’s employer
  - Oconee County – Contract with Talbert
  - Dept. of Health – Permitting agency

- **Facts**
  - Wynn drafted runway stormwater plan
  - County approved plans
  - Wynn failed to send plans to DoH for permit
  - Wynn cut seal off other plans and copied onto runway plan

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Wynn

- Disposition
  - Wynn’s mail fraud and wire fraud conviction upheld
  - $118,000 in damages plus additional fraud charges

Clark v Morsilli, 714 A.2d 597 (1998)

- Parties
  - Clarke – PE and Board of Registration Member
  - Anthony – PE
- Facts
  - Clarke participated in Anthony’s disciplinary proceedings
  - Clarke’s firm took Anthony’s firm’s project
  - Anthony filed complaint
- Disposition
  - Code of Ethics violation

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