

Professional Misconduct

From the Professional Engineers Act:

Regulations

7. (1) 21. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations, defining professional misconduct for the purposes of this Act.

Professional misconduct

28. (2) A member of the Association or a holder of a certificate of authorization, a temporary licence, a provisional licence or a limited licence may be found guilty of professional misconduct by the Committee if,

- (a) the member or holder has been found guilty of an offence relevant to suitability to practise, upon proof of such conviction; or
- (b) the member or holder has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

From Ontario Regulation 941:

72. (1) In this section,

“harassment” means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known as unwelcome and that might reasonably be regarded as interfering in a professional engineering relationship;

“negligence” means an act or an omission in the carrying out of the work of a practitioner that constitutes a failure to maintain the standards that a reasonable and prudent practitioner would maintain in the circumstances.

72. (2) For the purposes of the Act and this Regulation, “professional misconduct” means,

- (a) negligence,
- (b) failure to make reasonable provision for the safeguarding of life, health or property of a person who may be affected by the work for which the practitioner is responsible,
- (c) failure to act to correct or report a situation that the practitioner believes may endanger the safety or the welfare of the public,
- (d) failure to make responsible provision for complying with applicable statutes, regulations, standards, codes, by-laws and rules in connection with work being undertaken by or under the responsibility of the practitioner,
- (e) signing or sealing a final drawing, specification, plan, report or other document not actually prepared or checked by the practitioner,
- (f) failure of a practitioner to present clearly to the practitioner’s employer the consequences to be expected from a deviation proposed in work, if the professional engineering judgment of the

practitioner is overruled by non-technical authority in cases where the practitioner is responsible for the technical adequacy of professional engineering work,

- (g) breach of the Act or regulations, other than an action that is solely a breach of the code of ethics,
- (h) undertaking work the practitioner is not competent to perform by virtue of the practitioner's training and experience,
- (i) failure to make prompt, voluntary and complete disclosure of an interest, direct or indirect, that might in any way be, or be construed as, prejudicial to the professional judgment of the practitioner in rendering service to the public, to an employer or to a client, and in particular, without limiting the generality of the foregoing, carrying out any of the following acts without making such a prior disclosure:
 - 1. Accepting compensation in any form for a particular service from more than one party.
 - 2. Submitting a tender or acting as a contractor in respect of work upon which the practitioner may be performing as a professional engineer.
 - 3. Participating in the supply of material or equipment to be used by the employer or client of the practitioner.
 - 4. Contracting in the practitioner's own right to perform professional engineering services for other than the practitioner's employer.
 - 5. Expressing opinions or making statements concerning matters within the practice of professional engineering of public interest where the opinions or statements are inspired or paid for by other interests,
- (j) conduct or an act relevant to the practice of professional engineering that, having regard to all the circumstances, would reasonably be regarded by the engineering profession as disgraceful, dishonourable or unprofessional,
- (k) failure by a practitioner to abide by the terms, conditions or limitations of the practitioner's licence, provisional licence, limited licence, temporary licence or certificate,
- (l) failure to supply documents or information requested by an investigator acting under section 33 of the Act,
- (m) permitting, counselling or assisting a person who is not a practitioner to engage in the practice of professional engineering except as provided for in the Act or the regulations,
- (n) harassment.