

LAWS OF DELAWARE
VOLUME 85
CHAPTER 159
153rd GENERAL ASSEMBLY
FORMERLY
HOUSE BILL NO. 81

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO PROFESSIONAL ENGINEERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 2803, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2803. Definitions.

The following words, ~~terms~~ terms, and phrases, when used in this chapter, shall have the meaning ascribed to them, except where the context clearly indicates a different meaning;

(1) “Active roster” shall mean the record of members, associate members, ~~permittees~~ and holders of a certificate of authorization.

(5) “Applicant” shall mean a person who applies to become licensed as a professional engineer, applies to become certified as engineer intern, applies to become an adjunct member of the association, or applies for a certificate of authorization ~~or permit~~.

Section 2. Amend § 2804, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2804. Delaware Association of Professional Engineers; objectives.

There is hereby established the Delaware Association of Professional Engineers, an instrumentality of the State. The objectives of the Association and of this chapter are to regulate the practice of engineering, to provide for the registration of qualified persons as professional engineers and the certification of engineer interns, to define the terms “engineer,” “professional engineer,” “engineer intern” and “the practice of engineering,” to create an organization to regulate the practice of engineering to provide and administer qualifying examinations and grant registration to qualified persons as professional engineers, to provide for the appointment and election of members to the governing body of this Association, to define the powers and duties of the Council, to set forth the minimum qualifications and other requirements for registration as a professional engineer, for certification as an engineer intern, ~~the granting of a permit to practice engineering~~, and the granting of a certificate of authorization, to set rules for the establishment of fees, expiration requirements and renewal requirements, to establish continuing professional

competency guidelines and requirements, and to provide for the enforcement of this chapter together with penalties for violations of the provisions of this chapter.

Section 3. Amend § 2814, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2814. Bylaws of the Association.

The Council shall prepare for approval by the membership the following bylaws related to the administrative and domestic duties of the Association:

(16) Prescribing applications, certificates, ~~permits~~ and seals and providing for their issuance and use;

Section 4. Amend § 2816, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2816. Code of ethics.

(b) All applicants, members, associate members, affiliate members, adjunct members, and holders of certificate of authorization ~~and permittees~~ must subscribe to and follow this code of ethics in the practice of professional engineering, or in seeking to register as a professional engineer or seeking certification as an engineer intern.

Section 5. Amend § 2817, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2817. Requirements for licensure.

The following requirements for the 3 essential components of education, experience, and examination shall be considered as the minimum satisfactory evidence that an applicant is qualified for licensure as a professional engineer:

(6) *Comity*. — a. The Council may, upon application and payment of the required fee and without further examination, issue a license as a professional engineer to any person holding a current, valid certificate of registration or a license as a professional engineer issued to that person by a proper authority of a state, territory, or possession of the United States, the District of Columbia, ~~or a province or territory of Canada, or other Council-~~ approved foreign jurisdiction, provided the applicant's certificate or license is in good standing as defined in paragraph (9) of this section, and the applicant's qualifications meet at least 1 of the following:

b. The Council may, upon application and payment of the required fee, issue a license as a professional engineer to an applicant who is an International Professional Engineer (IntPE) registrant under the International Engineering Alliance (IEA) International Professional Engineers Agreement (IPEA). The applicant's IntPE registration must be current and in good standing as defined in paragraph (9) of this section. Such applicant must also have a minimum of 5 years of continuous and verifiable experience as a professional engineer obtained after receipt of the ~~initial license~~, applicant's IntPE. The applicant must meet the additional requirements of paragraph (7)a. of this section.

(7) *Additional requirements.* — a. Every applicant shall give not less than 5 references, people who state that in their opinion and by their personal knowledge the applicant is qualified to practice as a professional engineer. At least 3 such references shall be registered or licensed professional engineers in this or any other state or territory or possession of the United States, the District of Columbia, ~~or the province or territory of Canada~~ other Council-approved foreign jurisdiction, or an IntPE registrant under the IEA.

Section 6. Amend § 2822, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2822. Public works.

(a) The State, its political subdivisions, agencies, ~~commissions~~ commissions, and authorities shall not solicit or receive proposals for, or engage in, the construction of public works involving the practice of engineering as defined in this chapter, unless:

(1) The engineer, partnership or corporation which will perform and/or take responsibility for all engineering work, as identified in the proposal, is authorized to practice engineering under this chapter at the time of submission of the proposal; and

(2) The engineering study, drawings, ~~specifications~~ specifications, and estimates are prepared by, and the construction is executed under the responsible charge or direct supervision of a licensee ~~or permittee~~.

(b) Any contract executed in violation of this section shall be null and void.

Section 7. Amend § 2823, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2823. Grounds for discipline; appeals.

(b) The Council shall have the power to review the actions of any applicants sitting for any examination that is conducted by, or on behalf of, the Association to determine the applicant's qualification for licensure as a professional engineer or certification as an engineer intern.

(1) ~~The following actions by an examinee shall be considered violations of this chapter:~~

~~a. Any attempt to remove, or removal of, examination materials or content from the room in which the examination is administered;~~

~~b. Any attempt to reproduce, transcribe or transmit the content of examination materials that would permit the removal of such content from the room in which the examination is administered;~~

~~c. Any use or possession of unlawfully obtained information that reveals, or is procured by the examinee with the anticipation that it could reveal, any portion of the content of the current examination;~~

~~d. Any communication, whether verbal, written, electronic, or by action, made in an effort to seek assistance from another party, that would aid in obtaining a higher grade for the examination during an examination administration, or to provide such assistance to another examinee.~~

~~e. Any impersonation, or solicitation of impersonation, that allows another individual to sit for the examination in place of the designated applicant; or~~

~~f. Any violation of the terms of any examination security agreement entered into freely by the examinee with the Association outlining the examinee's responsibilities in taking the examination.~~

(2) ~~The chief proctor for the examination, acting on behalf of the Council, may at the chief proctor's sole discretion, when presented with evidence of any violation under paragraph (b)(1) of this section above at any time during the examination administration period:~~

~~a. Collect any examination materials provided to the examinee;~~

~~b. Collect any personal property belonging to the examinee, which the proctor reasonably believes may contain content from the examination materials;~~

~~c. Dismiss the examinee from the examination site; and~~

~~d. Seek any law enforcement assistance that the chief proctor feels is necessary to affect paragraphs a. through c. above of this paragraph (b)(2) of this section.~~

~~(3) Following its review of the facts associated with any alleged examination impropriety, Council shall have the power to impose any or all of the following penalties on any individual found guilty after a hearing, unless such hearing is waived by the examinee, of an examination impropriety:~~

- ~~a. Void the results of the subject examination;~~
- ~~b. Refuse permission for the examinee to take the examination for a period of 2 years, or such time determined by Council to be required to ensure that a subsequent examination is unlikely to repeat questions contained in the subject examination;~~
- ~~c. Require successful completion by the examinee of an ethics course before a future examination opportunity;~~
- ~~d. Revoke any license as a professional engineer or certification as an engineer intern granted as a consequence of the examinee receiving a passing score on the subject examination; and~~
- ~~e. Report any disciplinary action taken to other jurisdictions to help ensure the integrity of their examination process.~~

(1) An examinee may be dismissed from examination and subject to disciplinary or other Council action for conduct, including:

- a. Cheating on an examination;
- b. Giving assistance to, or receiving assistance from another person;
- c. Compromising the integrity of the examination;
- d. Disruptive or abusive behavior;
- e. Participating in any form of violation of exam policies or procedures during an examination.

(2) Evidence of failing to comply with an examination administrator's policies and procedures subsequent to an examination may also be cause for action by the Council. An examinee who does not fully comply with the examination administrator's policies and procedures during or after an examination may be subject to having those examination results invalidated and being prohibited from taking the examination again for a period determined by the Council. Examinations taken and passed in other jurisdictions while barred from taking that examination in Delaware will not be accepted for licensing purposes in Delaware.

Section 8. Amend § 2824, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2824. Disciplinary action; procedure.

(b) *Complaint investigation and prosecution.* — (1) Upon receipt of a written accusation alleging a violation of § 2823 of this title or alleging the unlicensed practice of professional engineering in violation of § 2825 of this title, the Council may assign the matter to its investigating committee for possible prosecution. The investigating committee may also initiate the prosecution process based upon firsthand knowledge acquired by a member or upon a member's information and belief whether the accusation of wrongdoing is written or oral. Members of the investigating committee shall maintain strict confidentiality of the facts of its investigations and shall not discuss any issues of fact or law relating to an investigation with anyone except other investigating committee members, potential witnesses, the target of the investigation, or the target's legal representative.

a. If any allegations are not supported by the facts stated in the complaint, the investigating committee shall submit a written recommendation to the Council for dismissal of the unsupported allegations. The recommendation must recite ~~verbatim all~~ the complaint allegations that are recommended for dismissal, indicating the investigating committee's reasoning for recommending dismissal of each allegation. By majority vote of the members present at a properly convened Council meeting, the Council shall approve or reject the investigating committee's written recommendation based only on the information contained in and included with the written recommendation. The Council shall reject the investigating committee's recommendation only if it decides that the investigating committee's recommendation is contrary to a specific state or federal law or regulation, is not supported by substantial evidence, or is arbitrary or capricious. If Council does not approve the investigating committee's recommendation, the matter must be remanded to the investigating committee with the Council's written reasons for withholding its approval. If all allegations in a complaint are dismissed by the Council, the complaint is dismissed.

(c) *Disciplinary penalties and guidelines.* — (1) Disciplinary violations under § 2823(a) of this title are punishable by the following penalties, or any combination thereof: levy fines up to \$5,000; require the successful completion of additional training or education courses; issue warnings, public reprimands, and censure; refuse or revoke licensure; impose probation with appropriate terms and conditions; impose suspension of license not to exceed 2 years; and refuse to renew any authorization issued to use the term

“engineer” or practice engineering in Delaware. All fines must be paid to Council within 90 days of the date of mailing of an order. All fines collected by the Council must be deposited in the General Fund of the State through the Division of Revenue, provided that the Council may first deduct from the fines an amount equal to the administrative and other direct expenses incurred by the Council, its hearing committee, and its investigating committee, in the prosecution of the complaint.

(2) The Council shall prepare and publish a chart of Disciplinary Penalty Guidelines (“Guidelines”) indicating the minimum and maximum penalties available for each basis for discipline in § 2823 of this title. Penalties must be imposed according to the Guidelines after taking into consideration any aggravating or mitigating circumstances in each case. The Guidelines shall be provided to each Association member, associate member, affiliate member, and adjunct member, ~~and permittee~~ and shall be available free of charge to the public. Copies of the Guidelines must also be made available to prospective applicants as a part of their application materials.

(d) Any person who files a complaint, provides information, or testifies as a witness in a matter alleging a violation under § 2823 of this title or a violation under § 2825 of this title must be afforded the protections of the Delaware Whistleblowers’ Protection Act as codified in Chapter 17 of Title 19.

(e) The Council may, upon petition of an adjunct member, affiliate member, individual licensee, ~~permittee~~, ~~engineering corporation~~ corporation, or partnership holding a certificate of authorization, reissue authorization to use the term “engineer,” a license, ~~permit~~ or certificate of authorization; provided, however, that a majority of the seated members of the Council vote in favor of such issuance.

Section 9. Amend § 2825, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(a) Persons or engineering corporations or partnerships not licensed, not authorized by Council, or not holding a ~~permit~~ or certificate of authorization may not:

(d) Whoever presents or attempts to use as that person’s own license, certificate of authorization, ~~permit~~ or the seal of a professional engineer not that person’s own shall be in violation of the provisions of this chapter.

(e) Whoever gives any false or forged evidence of any kind to the Council or to any member thereof in obtaining authorization to use the term “engineer,” a license, or a certificate of authorization, ~~or a permit~~ shall be in violation of the provisions of this chapter.

(f) Whoever falsely impersonates any other adjunct member, affiliate member, licensee, or holder of a certificate of authorization, ~~or permittee~~ with a similar or different name shall be in violation of the provisions of this chapter.

(g) Whoever attempts to use an expired or revoked authorization to use the term “engineer,” a license, or certificate of authorization ~~or permit~~ shall be in violation of the provisions of this chapter.

(h) Any applicant who misstates or misrepresents any fact in connection with the application or any such applicant who uses improper means to gain information usable by such applicant on or in connection with an examination taken by the applicant to obtain licensure as a professional engineer or certification as an engineer intern shall be in violation of the provisions of this chapter.

(j) This chapter shall not be construed to prevent or to affect:

(1) The work of an employee or a subordinate of a licensee ~~or permittee~~, provided such work is done under the direct responsibility, checking and supervision of a licensee ~~or permittee~~, or

(n) *Cease and desist orders.* — (1) The investigating committee may submit a written recommendation to the Council that a cease and desist order be issued. The written recommendation must include a copy of the proposed order. The proposed order must recite verbatim all complaint allegations the investigating committee believes are supported by its findings, brief recitation of those findings, and include a reasonable date certain deadline for the accused to comply with the order. The order must also indicate that the accused may request a hearing in writing any time before passage of the compliance deadline, and that the order will become final and enforceable after passage of the compliance deadline.

(4) The Council may seek injunctive relief as provided in this Chapter to enforce cease and desist orders.

Approved August 21, 2025