

ENGINEERING

Express

Published by the Texas Board of Professional Engineers

Number 33, Summer 2006

A Word from the Executive Director



Dale Beebe Farrow, P.E.,
TBPE Executive Director

By Dale Beebe Farrow, P.E.

It's been almost two years now that I have been the executive director of the Board of engineers. In reading over last year's newsletter, it's amazing how many changes have occurred from then to now.

First, in terms of the Board makeup, Jim Nichols, P.E. has relinquished his position as chairman and become an emeritus member. We are very pleased to have his great wisdom, experience, and perspective carry on in this capacity. Govind Nadkarni, P.E., who had been the vice-chair, has been appointed by Governor Perry as the new chairman of the Board. Nadkarni has been with the Board since 2000 and has broad experience in major civil engineering projects and has been very active in all facets of the Board's business during his tenure.

Vicki Ravenburg, a public member and CPA, has contributed much to our agency's success under the Self-Directed, Semi-Independent program. That's the program that allows us to run the agency like a business and affords us flexibility to apply resources where they are most needed. Thanks to her, your license fee increases have been minimal. Ravenburg's term has now expired and the

Governor has just appointed Dr. Edward Summers, a retired CPA and professor in accounting, to replace her.

We were sad to see Dr. Roland Haden, P.E., and Bill Lawrence resign in December of '05 to pursue other avenues. They both contributed tirelessly to the Board's committees and task forces over the years. Dr. Bob Sweazy, P.E., was replaced in May as his term had come to an end. Dr. Sweazy is a Ph.D. educator and brought great insights to the Board from that vantage point.

With all of these changes, we have been fortunate in having the Governor's office appoint other new members in addition to Dr. Summers. Elsie Allen, a public member from Fort Worth, comes to the Board with a sound investigative background. Dr. Daniel Wong, P.E., of Sugar Land, is a civil engineer with strong civic commitments. Dr. Kemble Bennett, P.E., is vice chancellor of Texas A&M and also the dean of its engineering program. He will offer a much needed higher education perspective. Finally, Jim Greer, P.E., of Keller will help to diversify the Board as an electrical engineer with vast experience in electrical distribution systems.

Phew, now for some agency changes. Paul Cook, who was assistant executive director, retired after almost 20 years at the Board. Lance Kinney, P.E., who had been the director of licensing, replaced Paul as the deputy executive director. Lance has been instrumental in devising new and improved ways to enhance our agency efficiency.

David Howell, P.E., has joined us as the new director of licensing. He brings a wealth of knowledge in management and

Continued on Page 2

IN THIS ISSUE

Board Rule Updates	Page 4
Enforcement News	Page 6
Outreach Efforts	Page 10
Policy Advisories	Page 12

TEXAS BOARD OF PROFESSIONAL ENGINEERS

Executive Director Dale Beebe Farrow, P.E.
Design Editor Janet Sherrill

Special Thanks To: Janie Beltran, C.W. Clark, P.E., David Howell, P.E., Lance Kinney, P.E., Jeff Mutscher and Mason Schoolfield.

CURRENT BOARD MEMBERS

Govind Nadkarni, P.E., Chair Corpus Christi
Jose F. Cardenas, P.E., Vice-Chair El Paso
Gerry E. Pate, P.E., Secretary Houston
Elsie Allen Fort Worth
G. Kemble Bennett, Ph.D., P.E. College Station
James Greer, P.E. Keller
Shannon K. McClendon Dripping Springs
Edward L. Summers, Ph.D. Austin
Daniel O. Wong, Ph.D., P.E. Sugar Land

CONTACT INFORMATION

1917 IH 35 South, Austin, TX 78741

Phone: 512-440-7723

Website: www.tbpe.state.tx.us

E-mail: peboard@tbpe.state.tx.us

A Message from the Chairman of the Board

By Govind Nadkarni, P.E.

It is a great honor to be appointed as the new chair of the Texas Board of Professional Engineers. My predecessor, Jim Nichols, P.E., has done a phenomenal job providing leadership for the Board over the years, and I am hopeful that he will continue to lend his guidance as an emeritus member.

With all the recent changes to the Board's composition, my appointment will allow me to give some continuity to the Board. I have been serving as a Board member since September of 2000 and most recently as the vice-chair.

There are many challenges we face as we head into the next Legislative session. Certainly on the top of the list is preserving our Self-Directed, Semi-Independent status. This allows us to operate our agency like a business and focus on our service to licensees and the public. We also would like to resolve some overlap issues with our sister agency, the Texas Board of Architectural Examiners.

As a licensee, you are an integral part of how the Board functions. We are charged with licensing only qualified individuals to practice engineering in a competent and ethical manner for the protection of the public health, safety and welfare. To accomplish this mission, we rely on you as references to new license holders. This is a serious matter and we ask that you take it to heart and give an honest appraisal of the applicant's character, integrity, and competence to uphold the quality of our profession.

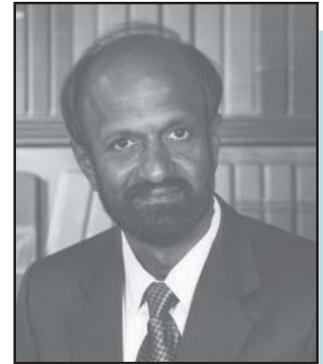
We are also charged with enforcing the Texas Engineer-

ing Practice Act (Act) and the Board rules. We rely on you to assist us in this matter as well. As a professional engineer, you are obligated to report violations of the Act or rules to the Board as part of your ethical responsibility. This includes violations committed by other professional engineers as well as the unlicensed practice of engineering.

Finally, engineering is a vital profession to this state and as the population of Texas grows, so too will its infrastructure and engineering opportunities. We rely on you to encourage licensure and serve as a role model to those on their way to becoming a professional engineer.

It is said that engineering is one of the most underappreciated professions, yet engineers are involved in almost every facet of modern life. We all need to help educate the public as to what engineers do, including promoting the study of engineering to students.

I look forward to serving you as the Board chair and thank you for your ongoing service to the Board.



*Govind Nadkarni, P.E.,
TBPE Board Chair*

Continued from Page 1 - A Word from the Executive Director

process streamlining.

Janie Beltran, my executive assistant, plans to retire at the end of this year after 24 years of state service. She is the one that keeps us all on track and will leave some big shoes to fill. We have welcomed several new staff members to the agency as well (see right). So as you can see, it's a whole new regime.

We have made great advancements over the last year. We deployed the online renewal system so you can renew online, update personal data, and track continuing education. We have implemented an agency business plan and are now tracking a variety of performance measures. We continue to work with Canada and Mexico through NAFTA comity licenses. We have expanded our outreach with our licensees and professional societies, reaching over 3,400 people in the last fiscal year (see graph on page 10). And with the help of the ad hoc waiver review committee, we are finalizing the more than 450 waiver applications that came in at the end of last year. We also constantly strive to make our rules more understandable to enhance compliance with them.

As Charles Darwin once said, "It is not the strongest of the species that survive, nor the most intelligent, but the one most responsive to change." So until next year, we'll see what evolves.

Dale



Several new smiling faces were added to the agency since the last newsletter. Pictured (from left): Ian Eskander, Licensing Specialist; David Howell, P.E., Director of Licensing; and Heather Thomas, Licensing Specialist.

My Revelations as Director of Licensing

By David Howell, P.E., Director of Licensing

When I first talked to Dale about the possibility of becoming the new director of licensing for the Board, I was excited about the idea of being able to use my technical and management experience to help the TBPE do its work.

In the first few days, I had some significant revelations. Right away, I learned that the PE Board is staffed by many competent, capable people. I knew my main focus in the new position would be staff workload. Over the next few months, I came to understand how right I was.

Since I joined the Board, we have implemented several changes to policies and rules that affected licensing. On January 1, 2006, Board rules became effective which eliminated the possibility of licensure by waiver of the Principles and Practice of Engineering (PE) exam for most engineers in Texas. Under the new rules, only PhD engineering educators and engineers who hold a license in another jurisdiction in the United States can request a waiver of the PE exam.

Before the new rules became effective, the TBPE received hundreds of applications from engineers who wanted to be considered under the existing waiver rules. With such a large number of applications to consider, the Board members decided to implement a new process to increase consistency and decrease the amount of time it takes to review applications. Using the new process, approximately 450 applications and reconsideration requests have been reviewed and decided on by a special committee of Board members.

Another big change the TBPE has seen since I came on staff is the start of a new National Council of Examiners for Engineering and Surveying (NCEES) program for exam collusion analysis. Beginning with the October 2005 exam administration, NCEES contracted with a vendor to perform a set of complex statistical analyses on every exam answer sheet. The answers provided by an examinee are compared to every other examinee taking the same exam. The results are narrowed by proximity of the examinees during the exam. The result of this analysis is a list of candidates, which is sent to us for investigation prior to releasing the exam results. Our investigation considers evidence collected from various sources and results in recommendations to NCEES and the Board regarding the exam results and the potential licensure of the candidate. If the applicant is found to have violated exam policies, Board rules allow the TBPE to ban this applicant from taking any exam for a period of two years. For the October 2005 exam, five pairs of candidates were identified and investigated. For the April 2006 exam, four pairs were identified and are being investigated.

Calendar year 2006 is the second year of the mandatory Continuing Education Program (CEP). Except for our new engineers in Texas, all of us have been through at least one renewal since the implementation. So far, the CEP for 2006 renewals has gone well. As with last year, about 2% of the renewals received each quarter are audited. Agency staff contacts the engineer for copies

of their CEP documentation. For the first half of 2006, 500 renewals were audited, which resulted in only six being sent to enforcement for follow up.

One final change that we in licensing have before us is an increase in examination fees. Since NCEES and their subsidiary Engineering and Land Surveying Examination Services (ELSEs), administer exams under contract for the TBPE, NCEES sets fees, which are processed by the TBPE with the registration and go directly to the NCEES and ELSEs for exam costs. Starting with the October 2006 exam administration, NCEES has increased exam registration fees by five dollars. The FE registration fee is now \$120 and the PE registration fee is now \$200.

In closing, I just wanted to add that even with all of the challenges we face at the Board, I'm glad to be here and working toward meeting the Board's goals and its mission. I am excited about working with Dale and the board staff and I am eager to learn more and contribute to our profession as much as I can.



David Howell, P.E., Director of Licensing



"Let them eat cake," declared new Board member Edward L. Summers, Ph.D. (center) at his reception. Also pictured are G. Kemble Bennett, Ph.D., P.E. and Dale Beebe Farron, P.E., TBPE Executive Director.

Board Rule Updates

The following are summaries of rules that were adopted by the Board during the last year. The effective date appears next to the Board rule. Please refer to the TBPE web site at www.tbpe.state.tx.us/downloads.htm to view or download complete copies of the current law and rules.

<u>Rule</u>	<u>Change and Effective Date</u>
§133.12 - Emergency Temporary License	This rule was adopted to support temporary licensure with Louisiana, Alabama, and Mississippi in response to Hurricane Katrina. The emergency rule expired on January 5, 2006.
§131.81 - Definitions	Updates references to ABET, Inc. Effective January 1, 2006.
§133.11 - Types of Licenses	Two changes have been made to this rule: <ul style="list-style-type: none"> • Modifies a citation to Rule §133.69 in support of changes to examination waiver requirements. Effective January 1, 2006. • Limits licensure via the NAFTA agreement to applicants that are citizens of Canada or Mexico and are licensed in good standing in their home jurisdiction. The rule change also clarifies language regarding comity licensure and removes references to reciprocal licensure. Effective June 20, 2006.
§133.25 - Applications from Engineering Educators	Two changes have been made to this rule: <ul style="list-style-type: none"> • Clarifies the appropriate version of the ABET yearbook to be used for accreditation and the requirements for application for licensure for engineering educators. Effective January 1, 2006. • Clarifies language regarding licensure via a waiver of one or more examinations for Engineering Educators. The rule change reorganizes current rule language in conjunction with adopted changes to §133.43 and §133.69. Effective June 20, 2006.
§133.27 - Application for Comity License	Clarifies language regarding comity licensure and removes references to reciprocal licensure as Texas does not have a truly reciprocal licensure process. Effective June 20, 2006.
§133.31 - Educational Requirements for Applicants	Clarifies references to ABET and ABET accreditation. Effective January 1, 2006.
§133.33 - Proof of Educational Qualifications	Non-Accredited/Non-Approved Programs - Clarifies references to accreditation by ABET. Effective January 1, 2006.
§133.41 - Supplementary Experience Record	Clarifies the number of years that should be documented in a Supplementary Experience Record in relation to a waiver of examinations. Effective January 1, 2006.
§133.43 - Experience Evaluation	Clarifies language regarding licensure via a waiver of one or more examinations for Engineering Educators. The rule change reorganizes current rule language in conjunction with adopted changes to §133.25 and §133.69. Effective June 20, 2006.
§133.69 - Waiver of Examinations	Two changes have been made to this rule: <ul style="list-style-type: none"> • Revises the number of years and basic requirements to apply for a waiver of the Fundamentals of Engineering examination, the Principles and Practice of Engineering examination, or a combination of both examinations. The rule change limits a waiver of the Principles and Practice of Engineering examination to those applicants that are Ph.D. Educators or are current license holders in another jurisdiction. Effective January 1, 2006. • Clarifies language regarding licensure via a waiver of one or more examinations. The rule change reorganizes current rule language in conjunction with adopted changes to §133.25 and §133.43. Effective June 20, 2006.
§135.3 - Application for a Certificate of Registration	Removes a provision that allows a part-time engineer to meet the requirements for registration of an engineering firm. Effective January 1, 2006.
§137.7 - License Expiration and Renewal	Clarifies that license renewal payments may be made through electronic means. Effective January 1, 2006.
§137.9 - Renewal for Expired License	Clarifies language for determining the fee for a late license renewal payment set by the Board. Effective January 1, 2006.

Board Rule Updates Continued

§137.13 - Inactive Status	Allows a license holder currently in Inactive Status to use the term "Retired" to indicate Inactive Status on business cards and correspondence. Effective March 20, 2006.
§137.14 - Voluntary Surrender of License	New rule that provides a process for a license holder to voluntarily surrender a license. Effective January 1, 2006.
§137.17 - Continuing Education Program	Clarifies that activities intended to meet the ethics requirement may not be rolled over into the next year and that a total of 14 hours of activity may be rolled over per renewal period. Effective January 1, 2006.
§137.33 - Sealing Procedures	Clarifies that a plan, specification, plat, or report issued by a license holder for a project to be constructed or used in this state must include the license holder's seal placed on the document. A license holder is not required to use a seal if the project is to be constructed or used in another state or country. Effective January 1, 2006.
§137.51 General Practice	Clarifies rule by removing an unnecessary word at the end of the rule. Effective September 4, 2006.
§137.57 Engineers Shall be Objective and Truthful	Adds clarification to the specific and individual violations as it relates to fraudulent, deceitful, or misleading. Effective September 4, 2006.
§137.59 Engineers' Actions Shall Be Competent	Removes the reference to careful and diligent manner and conformance parameters from this rule, which is related to competence. Effective September 4, 2006.
§137.63 Engineers' Responsibility to the Profession	Adds reference to "standards" to the list of applicable professional practice requirements in (b)(1) of the rule and adds a new (b)(6), which addresses practicing in a careful and diligent manner. Effective September 4, 2006.
§137.77 - Firm Registration Compliance	Two changes have been made to this rule: <ul style="list-style-type: none"> • Adds a provision that allows an engineer that is a sole proprietor to meet the requirements for registration of an engineering firm. Effective January 1, 2006. • Removes the 30-day amnesty period for firm registration, requiring all firms offering engineering services to the public to be registered with the Board prior to offering those services or using the word "engineering" in their name. Effective June 20, 2006.
§139.21 - Reporting Complaint Status to the Board	Clarifies the procedure to be used when handling cases that are determined to be frivolous or without merit. Effective January 1, 2006.
§139.35 - Sanctions and Penalties	Four changes have been made to this rule: <ul style="list-style-type: none"> • Modifies citations in the Sanctions and Penalties table in reference to §137.77, Firm Registration Compliance, and includes a violation for failure to report criminal convictions by license holders. Effective January 1, 2006. • Reorganizes the Sanction and Penalty table to include an Administrative classification, and relocated certain current violations to this new classification. The Board also revised the suggested sanctions for the Administrative violations. Effective March 20, 2006. • Updates citations in the Sanction and Penalty table in relation to changes to §137.77, concerning removal of the 30-day amnesty period for firm registration. Effective June 20, 2006. • Updates citations in the Sanction and Penalty table in relation to proposed changes to §137.57, concerning misleading practice; and §137.63, concerning the exercise of care and diligence in the practice of engineering. Effective September 4, 2006.
§139.43 - License Holder with Criminal Convictions	Clarifies that the Board will evaluate criminal convictions by license holders in accordance with Chapter 53 of the Texas Occupations Code. Effective January 1, 2006.
§139.49 - License Suspension /Revocation Based on License Holder's Status Review	New rule outlines the process the board will use when evaluating the status of a license per §1001.453 of the Act. Effective January 1, 2006.

Enforcement News

Disciplinary and Administrative Actions

August 11, 2005 - August 9, 2006

Further information on the listed enforcement actions can be found on our Web site. To find the case, notice the meeting date above the case, then go to www.tbpe.state.tx.us/disciplinary.htm. Click on the link to that particular meeting then scroll down to the case.

August 11, 2005 Board Meeting

Case Number: B-27826; eVolve, Incorporated; McKinney, TX.

Violation: It was alleged that this firm's web page unlawfully represented the ability to offer and provide engineering services for the public and Texas and it had also unlawfully performed engineering services.

Resolution: Cease and desist and a \$1,520.00 administrative penalty.

November 30, 2005 Board Meeting

Case Numbers: D-26967 and D-27887; Mr. Daniel P. Hejl, Jr., P.E.; Austin, TX.

Violation: It was alleged that two permit applications for landfill projects submitted by Mr. Hejl contained text that came from other permit applications prepared for different sites by different professional engineers; thus, his applications were misleading and were not supported by adequate modeling or calculations; he failed to meet applicable codes and did not consider the environmental impact which demonstrated gross negligence with a potential for endangerment to the public.

Resolution: Three year probated suspension, the assessment of a \$8,500.00 administrative penalty, submission of a corrective action plan and completion of an engineering ethics course.

Case Number: D-27759; Mr. Edgar Albert Gilbeau, P.E.; Pearland, TX.

Violation: It was alleged that a structural inspection performed by Mr. Gilbeau gave a misleading impression regarding the condition of a foundation and his actions indicated he did not act as a faithful agent of his client.

Resolution: Formal reprimand and a \$2,640.00 administrative penalty.

Case Number: D-27955; Mr. Kyle Van Corey, P.E.; Dallas, TX.

Violation: It was alleged that Mr. Corey failed to register his firm with the Board within 30 days of being notified of a firm registration violation and also failed to promptly respond to Board inquiries.

Resolution: Formal reprimand and a \$1,500.00 administrative penalty.

Case Numbers: D-27857 and D-27956; Mr. Maher Fawzi Qaddumi, P.E.; Houston, TX.

Violation: It was alleged that Mr. Qaddumi allowed his son to sign his name in conjunction with his Texas engineer seal to documents; thus, Mr. Qaddumi did not sign engineering documents prior to their release from his control and the allowance of his son to sign his name was an unprofessional business practice. It was also alleged that Mr. Qaddumi released a preliminary engineering design document without a caveat addressing the reason for its release and the limitations on its use.

Resolution: Formal reprimand and a \$2,000.00 administrative penalty.

Case Number: D-28174; Mr. Albert C. Alaniz, P.E.; Corpus Christi, TX.

Violation: It was alleged that Mr. Alaniz accepted payment to perform a windstorm inspection and issue an inspection certificate; however, a certificate was not issued. Therefore, Mr. Alaniz's actions were not honest or ethical and he did not act as a faithful agent of this client.

Resolution: One year suspension with last nine months to be probated contingent upon his payment of a \$3,300.00 administrative penalty.



The following employees were recognized in the agency employee recognition program for their exemplary work ethics. Pictured above (from left to right) are 2006 award recipients Peggy Phillips, Purchaser; Val Booth, Investigator and Odi Trevino, Licensing Specialist.

Continued on Page 7

November 30, 2005 Board Meeting Continued

Case Number: D-28154; Mr. Daren Jon Nielsen, P.E.; League City, TX.

Violation: It was alleged that while a full-time employee of a consulting engineering firm Mr. Nielsen and two other professional engineers formed a new engineering company and during the regular work hours of his full-time employer, he communicated plans for the new company and intent to utilize his employers data and resources. Therefore, Mr. Nielsen's actions were unethical, unprofessional, and not in keeping with being a faithful agent of his employer.

Resolution: Formal reprimand, the assessment of a \$3,000.00 administrative penalty and completion of an engineering ethics course.

Case Number: D-28155; Mr. Kurt Bernard Ederhoff, P.E.; Houston, TX.

Violation: It was alleged that while a full-time employee of a consulting engineering firm Mr. Ederhoff and two other professional engineers formed a new engineering company and during the regular work hours of his full-time employer, he communicated plans for the new company and intent to utilize his employers data and resources. Therefore, Mr. Ederhoff's actions were unethical, unprofessional, and not in keeping with being a faithful agent of his employer.

Resolution: Formal reprimand, the assessment of a \$3,000.00 administrative penalty and completion of an engineering ethics course.

Case Number: D-28156; Mr. Matthew Thomas McBurnett, P.E.; Houston, TX.

Violation: It was alleged that while a full-time employee of a consulting engineering firm, Mr. McBurnett and two other professional engineers formed a new engineering company and during the regular work hours of his full-time employer, he communicated plans for the new company and intent to utilize his employers data and resources. Therefore, Mr. McBurnett's actions were unethical, unprofessional, and not in keeping with being a faithful agent of his employer.

Resolution: Formal reprimand, the assessment of a \$3,000.00 administrative penalty and completion of an engineering ethics course.

February 23, 2006 Board Meeting

Case Number: D-28566; Mr. Gregory Alan Manry, P.E.; Kingwood, TX.

Violation: It was alleged that Mr. Manry failed to submit his continuing education records to the Board for audit and that he failed to promptly respond to the Board's repeated requests that he submit his continuing education records.

Resolution: Two year probated suspension contingent upon his payment of a \$2,520.00 administrative penalty.

May 25, 2006 Board Meeting

Case Number: D-28043, Mr. Clifford O'Neal Ward, P.E.; Houston, TX.

Violation: It was alleged that Mr. Ward issued a report claiming that deflection of the second floor of a residential structure under construction was caused by defective building materials; however, investigation by two other professional engineers disclosed that the second floor was actually under designed by the original designer. Thus, Mr. Ward's report created a

misleading impression as the likely cause of the deflection. It was further alleged that although Mr. Ward designed other aspects of the residential structure, he failed to ensure his firm's title block was shown on the pertinent plan sheet; therefore, the plan sheet created a misleading impression as to what business entity was responsible for those designs.

Resolution: Two year probated suspension contingent upon his payment of a \$5,400.00 administrative penalty.

Case Number: D-28463, Mr. Ronald A. Voss, P.E.; Corpus Christi, TX.

Violation: It was alleged that Mr. Voss issued a windstorm inspection document that was misleading and affixed a Texas engineer seal to the document that was not in complete compliance with the Texas engineer seal design.

Resolution: Formal Reprimand and the assessment of a \$960.00 administrative penalty.



The governor's office recently appointed three new Board members. Pictured above (from left): Daniel O. Wong, Ph.D., P.E.; James Greer, P.E. and Elsie Allen.

Continued on Page 8

May 25, 2006 Board Meeting Continued

Case Number: D-28663, Mr. Saeed Daniali, P.E.; Edmonds, WA.

Violation: It was alleged that after Mr. Daniali's original Texas professional engineer license became non-renewable and prior to his being re-licensed in Texas as a professional engineer, he unlawfully provided engineering services in Texas on behalf of his firm, which was not registered with the Board, and unlawfully identified himself as a Texas licensed professional engineer.

Resolution: \$1,000.00 administrative penalty.

Case Number: B-28461, Mr. James R. Orr, AIA; Brownwood, TX.

Violation: It was alleged that Mr. Orr unlawfully practiced engineering by preparing structural, mechanical and electrical design plans for a commercial building of approximately 7,080 sq.ft. of total floor area.

Resolution: Cease and desist and a \$2,600.00 administrative penalty.

August 9, 2006 Board Meeting

Case Number: D-28027, Dr. Clement W. Adegoke-Anthony, P.E.; Dallas, TX.

Violation: It was alleged that Dr. Adegoke-Anthony signed and sealed engineering drawings during a period when his Texas engineer license was in an expired status. It was also alleged that Dr. Adegoke-Anthony signed and sealed an engineering report that was issued by a firm where he was not employed; thus, he aided and abetted the misleading impression that this firm was responsible for the preparation of the report.

Resolution: Formal Reprimand and completion of an online ethics course.

Case Number: D-28006, Mr. Francois T. Mouawad, P.E.; Huffman, TX.

Violation: It was alleged that Mr. Mouawad failed to maintain the security of his Texas engineer seal and misled Board investigators regarding his involvement in the design of a project.

Resolution: Formal Reprimand and a \$200.00 administrative penalty.

Case Number: D-28041, Mr. David Allen Galvan, P.E.; San Antonio, TX.

Violation: It was alleged that Mr. Galvan failed to complete engineering work for a client for which he accepted compensation. It was also alleged that Mr. Galvan signed and sealed an engineering report during a period when his Texas engineer license was in an expired status and that he provided false or misleading information to the Board concerning the requirement that the report be sealed.

Resolution: Two year probated suspension contingent upon his payment of a \$4,320.00 administrative penalty and completion of an engineering ethics course.

Case Number: D-28398, Mr. Nicolae Fratila, P.E.; Houston, TX.

Violation: It was alleged that Mr. Fratila attempted to have a client of his employer terminate an existing contract with his employer and engage him as an individual to perform the needed engineering services. Such action would represent a potential for conflict of interest and a lack of being a faithful agent of his employer.

Resolution: Two year probated suspension contingent upon his payment of a \$2,000.00 administrative penalty and completion of an engineering ethics course. It was agreed that should he complete the ethics course, the administrative penalty would be waived.

Case Number: D-28870, Mr. Joe W. Ezzell, P.E.; Irving, TX.

Violation: It was alleged that Mr. Ezzell's engineering design for a residential structure was deficient because the primary members spacing and depth was not sufficient to support the dead loads or the total design loads.

Resolution: Two year probated suspension contingent upon his payment of a \$3,600.00 administrative penalty.

JUST A REMINDER
Reading this
newsletter counts
toward your CEP
credits as self-directed
study.



At the February 23, 2006, Board meeting, outgoing Board Chairman Jim Nichols, P.E., was presented with a signed resolution from the governor. The resolution honored him for his hard work and dedication to the Board as chair. Pictured (from left): Dale Beebe Farrom, P.E., TBPE Executive Director, Jim Nichols, P.E. and Govind Nadkarni, P.E., Board Chair.

Continued on Page 9

August 9, 2006 Board Meeting Continued

Case Number: E-26926, Mr. Joseph M. Dross; Gatesville, TX.

Violation: It was alleged that Mr. Dross identified himself as a "Professional Engineer" by using the designation "P.E." after his name on a business card. Board records showed that Mr. Dross has never been licensed in Texas as a professional engineer. Therefore, Mr. Dross' use of the "P.E." designation was an unlawful representation that he was licensed in Texas as a professional engineer.

Resolution: Cease and desist and a \$1,230.00 administrative penalty.

Case Number: D-28638, Mr. Earl F. McKinney; Lexington, KY.

Violation: The Kentucky State Board of Licensure for Professional Engineers and Land Surveyors issued Mr. McKinney a Final Order revoking his Kentucky professional engineer license for sealing plans that apparently were not prepared by him nor under his direct supervision for Kentucky projects. Based upon the action taken against Mr. McKinney in Kentucky, Mr. McKinney's Texas engineer license was also subject to censure.

Resolution: The Texas Board accepted Mr. McKinney's voluntary surrender of his Texas engineer license and ordered that his Texas engineer license be revoked.

Engineering Firms Assessed Administrative Penalties

The business entities listed below were assessed an administrative penalty for allegations associated with the offer or performance of consulting engineering services during a period when the business entity's firm registration was in an expired status or during a period when the business entity was not registered with the Board.

- Mejia & Rose, Brownsville, TX
- Monaghan Engineering, Inc., Dripping Springs, TX
- MetroTex Design Associates, Inc., Austin, TX
- Realty Engineering, Inc., Canyon Lake, TX
- Geomatrix Consultants, Inc., Austin, TX
- C. H. Guernsey & Company, Oklahoma City, OK
- Walton & Associates Consulting Engineers, Inc., Bryan, TX
- Engineering Spectrum, Incorporated, Issaquah, WA
- Givler Engineering, Inc., Castle Hills, TX
- Industrial Handling Engineers, Inc., Houston, TX
- Essayon Engineering & Development, Inc., Irving, TX
- Hannon Engineering, Inc., Hurst, TX
- Garcia Engineering, Inc., El Paso, TX
- Allpro Consulting Group, Inc., Richardson, TX

More information on the listed enforcement actions can be found on our Web site. To find the case, notice the meeting date above the case, then go to www.tbpe.state.tx.us/disciplinary.htm. Click on the link to that particular meeting then scroll down to the case.

Avoid Board Sanctions While Making Your Clients Happy

By C.W. Clark, P.E., Compliance & Enforcement Director

In the two and one-half years that I have been with this agency, there is one obvious characteristic that stands out with a good many of our investigations. Although we have our share of unlicensed practice, firm registrations, and licensee delinquencies, the most obvious professional engineering deficiency is the lack of a clearly defined and concise contract between the licensed professional engineer and the client.

More often than not there is no signed contract and the PE has been hired as a result of a friendly conversation. Other times, the only contract is a simple one that may or may not have both parties' signature.

This agency's enforcement division would recommend that licensed professional engineers carefully craft their contracts whereby they list the deliverables expected and the timeline for accomplishing those deliverables. Many of our complaints and resulting investigations reveal that the entire conflict would not have arisen if a clear contract was in place. Typically, the client (complainant) had one perception of what was asked or expected and the professional engineer had a different expectation.

As professional engineers, we are hired for our expertise and accordingly, should ensure that the client is very clear on

what will be provided and when. At best, the Board may take action against you for violation of the board rule §137.63 (b), which states: "The engineer shall: (5) act as a faithful agent for their employers or clients;..." Certainly the client would not be filing a complaint against you if he believed that you were acting on his behalf. Additionally, any assertions that you make that could be classified as misleading (see §137.57 (b)(3)) and the Board could sanction you for that violation.

Remember - when your client can't get resolution of their problem directly with you, the licensed engineer, they will likely come to us for resolution. Our rules are clear as to the responsibility of the licensee and we will ask you to provide supporting evidence that indicates you are not in violation. A clear and concise contract signed by you and your client will minimize the need for that client to file a complaint and therefore, eliminate the subsequent investigation by this Board.



C.W. Clark, P.E., Compliance & Enforcement Director

Getting the Word Out

By Lance Kinney, P.E., TBPE Deputy Executive Director



Lance Kinney, P.E., TBPE Deputy Executive Director

We are from the government and we're here to help. Okay, that might be a punch line to a joke, but it has proven to be true to over 3,500 PEs, Engineers-in-Training (EITs), and engineering students all over the state (see graphic below) who have attended outreach presentations provided by the Board. Many of you may have met one or more of our staff or Board members at the 56 presentations we have given in the last year alone. We would like to get the word out and meet with even more of you

in the next year.

The Board places a strong emphasis on outreach activities and feels they are a vital part of keeping the engineering community up-to-date with the laws, rules, enforcement activities, and other important issues related to professional licensure. Outreach activities help educate and strengthen

the protection of the public through ethics requirements and training, through communicating important issues being addressed by the Board and the profession, and by encouraging licensure for engineering students and EITs.

As part of our outreach plan for 2007, the Board is working to increase the number of meetings and presentations with student groups, student advisors, and university faculty to help educate them on the importance of licensure and to dispel myths about the exams and the licensure process. We are working closely with our Education Advisory Committee to contact all of the engineering programs and to offer our services to student groups across the state.

The Board is also working closely with the Texas Society of Professional Engineers (TSPE) in their effort to encourage licensure and to provide outreach. TSPE has offered to work with the Board to give joint presentations with local professionals who can provide insight into important practice issues.

Since we had the opportunity to speak with so many of you over the last couple of years, we are revising and updating our presentations for 2007. With the legislative session starting up, new rule changes, enforcement issues, the online renewal system, and other changes at the Board, we feel that there will be something new for everyone.

Please let us know if there are other topics that you would like included in our presentations, and we will be glad to customize our materials for your event.

If you would like to have the Board make a presentation for your university, company, student group, or organization, please let us know. Our outreach coordinator is Janie Beltran (janie.beltran@tbpe.state.tx.us / 512-440-7723). Feel free to contact her at any time to schedule a presentation or to discuss what programs we offer. Also, please pass along this information to any other groups that might be interested. Help us get the word out!

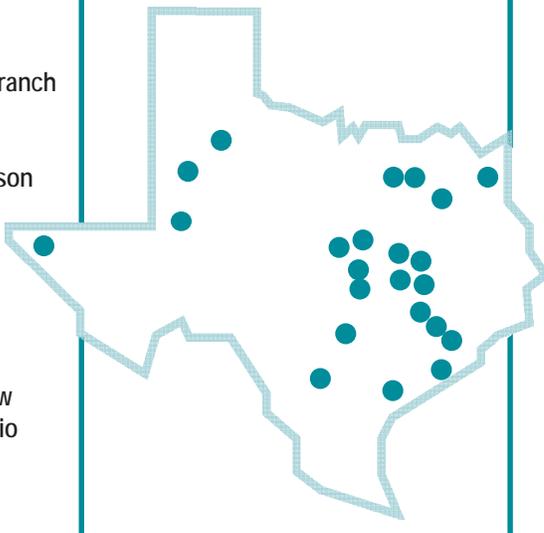
TBPE Outreach Program – FY 2006 Continuing Education, Licensure, Ethics, Compliance & Enforcement

For fiscal year 2006 (September 1, 2005 to August 31, 2006), the TBPE staff has made 56 public appearances to engineering professionals.

Cities Visited

- Amarillo
- Arlington
- Austin
- College Station
- Conroe
- Corpus Christi
- Dallas
- El Paso
- Farmers Branch
- Houston
- Killeen
- Lake Jackson
- Lewisville
- Longview
- Lubbock
- Mesquite
- Midland
- Pasadena
- Prairie View
- San Antonio
- Sweeny
- Temple
- Tyler

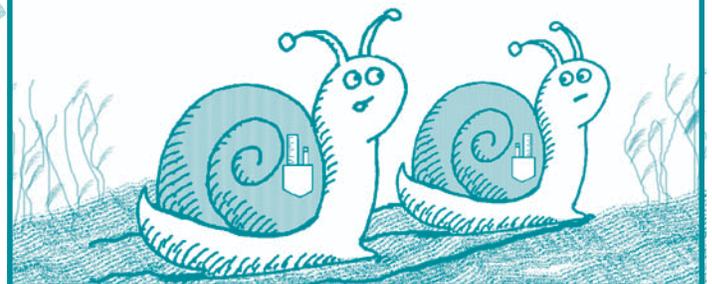
These events have been attended by over 3,500 attendees. This does not include the 24 exam sites statewide.



Don't be Sluggish!

If your license renewal is received after the expiration date, a \$75 late fee will be assessed. Payments received more than 90 days late will be charged another \$75 fee, for a total of \$150 plus the license renewal fee.

You know what makes me mad?...
Late fees!



Technology Can Be A Valuable Tool

By Janet Sherrill, IT/Communications Director

Technology is a great tool. At the Texas Board of Professional Engineers, we use tools to improve our operations and offer enhanced benefits to our engineers. As each engineer encounters our agency, from the first exam to retirement, we all do our best to use technology for their benefit as opposed to a flashy way to show off the newest gadgets.

Last year we introduced our online system entitled ECHO (Engineer's Cash Handling Online). Thus far, about 18,000 engineers have utilized ECHO. It has been a great tool for engineers who want to pay for their renewal by credit card, change their contact information or inform the Board of an employment change. Based on input received, 97% of those who have used the system have been satisfied with their experience.

By far, the greatest complaint we have heard regarding ECHO is the \$3 usage fee. Although we understand your concerns in paying a \$3 fee for this "alternative payment channel," we cannot waive this fee or make online transactions possible without charging this fee or assessing another type of fee increase. Even our staff engineers pay this fee.

The sheer nature of electronic payments involves an additional merchant who processes the credit card payment and then sends the funds to the financial institution of the service provider. This additional merchant must charge a fee for their services. Those who pay by check are not charged this fee as the additional merchant is not necessary.

ECHO will continue to improve based on the input we

receive from its users. Some changes which will be ready for December 2006 renewals include allowing an engineer to apply for inactive status through ECHO and the ability to print a temporary pocket card instantly. Although these instant pocket cards would not be the self-laminating cards we have heard so many of you rave about, this would allow an instant card in the case of an engineer needing a card for reimbursement or a job related demand.

Another feature which is planned for December is adding firm renewals as an alternative payment method within ECHO. This new feature will allow a firm to renew their license by credit card, modify the contact information for the firm, and modify branches or the engineers who are employed there.

As we continue to enhance our services and improve our tools, please know that providing the fastest, most efficient service to the engineering public is helping us all to meet our core mission to protect the health, safety and welfare of the people of Texas by regulating the practice of engineering.



Janet Sherrill
IT/Communications Director

Security is One of Our Highest Concerns

By Mason Schoolfield, TBPE Information Security Officer

After the recent incidents of electronic data theft from the University of Texas McCombs School of Business and from the US Department of Veterans Affairs, the public has become more wary about how governmental agencies protect their data.

Some licensees have asked what the Board of Engineers does to protect its licensees' personal information. Our internal database of engineers never leaves the agency and is only accessible from our LAN (local area network) for authorized users. In other words, no external access to our LAN is provided. Our firewall runs the most up-to-date software and provides one of the many layers of protection for our network. We do maintain offsite backups to guard against losing data from a disaster, but these backups are encrypted and stored on a secured server with strictly controlled access.

Access to public records, such as those available on our web site, is provided on a server which is physically separate from our LAN. We don't maintain any private data on this server which could be used as a means to steal our licensees' identity. Our online license renewal system, ECHO (Engineer's Cash Handling Online), uses industry standard Secure Sockets Layer (SSL) to encrypt the transmission of data over the internet between a home computer and our web

server. In a web browser, this is denoted by the letters HTTPS in the URL. No credit card numbers are stored on our web site; when a licensee renews his/her license, credit card information is sent directly to our payment processor, Texas Online, through an SSL connection. Texas Online is the statewide e-commerce portal mandated for all state agencies. This merchant is audited regularly by major credit card companies to ensure they are compliant with the latest industry security standards. As an aside, Texas Online is used by other agencies as a payment portal for renewing a driver's license, ordering a duplicate birth certificate or renewing a vehicle registration.

We are doing everything possible to protect your information as if it were our own; in fact, we have seven Professional Engineers on staff who, like all of our licensees, are very protective of their personal information.



Mason Schoolfield
TBPE Information Security Officer

Policy Advisory Opinions

By C.W. Clark, P.E., Compliance & Enforcement Director

The 78th Legislature enacted a section of our statute related to Policy Advisory Opinions which established the requirement for a Policy Advisory Opinion Committee to be formed and Policy Advisory Opinions to be developed, effective September 1, 2003. We are now about to begin our third fiscal year with this new directive. These advisory opinions are intended to be an interpretation of Chapter 1001 of the Occupations Code or the application of the

chapter with regard to a specified existing or hypothetical factual situation. The 79th Legislature re-worded §1001.601 of our statute to further clarify that the opinions could be a broadly focused interpretation as well as be narrowly specific.

Thus far, the Board has received 21 formal policy advisory opinion requests, has issued six final opinions (one was recently rescinded), closed eleven opinion requests with responses, two have been withdrawn, and currently have four

other requests pending committee and/or Board action. The current status of each policy advisory request/opinion is on our web site, <http://www.tbpe.state.tx.us/policy.htm>. If any individual wants to participate as a stakeholder for any opinion not yet finalized, please contact the Compliance & Enforcement Division.

Approved Policy Advisory Opinions

- ◆ Water Quality Planning
- ◆ Metropolitan Transportation Planning
- ◆ Structural or Mechanical Modifications to Building Roofs
- ◆ Water Tank Rehabilitation
- ◆ Construction Materials Testing

Opinions Pending Committee/Board Action

- ◆ Comprehensive Building Design
- ◆ Sealing Record Drawings (As-Builts)
- ◆ Commissioning of Engineered Systems (Buildings)

Texas Board of Professional Engineers
1917 IH-35 South
Austin, TX 78741

STANDARD PRESORT US POSTAGE PAID AUSTIN, TX PERMIT NO. 2637
