

News from Delaware's Licensing Council for Professional Engineers

Fall 2014

PRESIDENT'S MESSAGE

By Hans M. Medlarz, P.E.



**The Unpredictable Outcome of
Disciplinary Hearings**

The last few months have been busy for Council and me personally, and we do have a few things to show for our efforts. Continued Professional Competency (CPC) is part of the law and will be required by the first full renewal cycle after legislation was passed starting in 2016. One of the requirements is three (3) PDHs in ethics training for every two (2) year renewal period i.e. 2014-2016. On October 14th DAPE sponsored an ethics training session at the White Clay Creek Country Club giving our membership an opportunity to satisfy the ethics portion of the CPC obligation. The seminar was informative and entertaining, well attended and well received judging by the response of the members. Ethics training always seems to be a challenge but it is needed using the nature of the complaints received by DAPE as a gauge.

A number of past Presidents over the years remind us "Delaware is very different from all other states because we are self-regulated - that is, the majority of our board is elected by the membership". Since our foremost obligation is to protect the health, safety and welfare of the public, we place a lot of trust and responsibility in the hands of the Law Enforcement and Ethics Committee. The Committee, under Chairman Keith Kooker, P.E. and Vice Chair Ted Thomson, P.E., spends long hours analyzing and discussing

complaints brought before the Committee assuring the rigorous ethics as well as all lawful requirements are met. Once a case is thoroughly investigated and the Committee concludes its review, a recommendation for Council action is required. If a hearing is necessary, the President will appoint a hearing panel comprised of three (3) Council members. This in itself can be a challenge in a small state such as Delaware since a number of the members know each other and have to recuse themselves. This comes in addition to the automatic recusals of the members serving on the Law Enforcement and Ethics Committee or the ones actively involved in the investigation. As members of DAPE, I thought some of you may be interested to hear that we had a series of quite complex cases requiring the respective panels to meet for several days in each of the cases.

The hearing panel process is not unlike a trial where the Law Enforcement and Ethics Committee represented by their Deputy Attorney General (DAG) serves in the function of the prosecutor; the defendant is normally represented by private counsel; and the panel is assisted by the DAG assigned to Council. This function is currently in the capable hands of Ms. Catherine Hickey, Esq. She often reminds Council that just like in a trial the outcome is uncertain. The DAG representing the Law Enforcement and Ethics Committee will prosecute the case, but occasionally the outcome is different than the original expectations of the Committee, which is somewhat similar to a grand jury. The major difference between the lengthy

investigation by the committee and the lengthy hearing process is that the outcome of a case is based solely on the evidence and testimony presented at the hearing.

Having served on a number of hearing panels, as well as having appointed a similar number, as the current President, I see ways in which to improve the process. The investigator assigned to a case needs to be well matched in expertise and if necessary should be assisted by technical volunteer experts from the DAPE membership. If none can be found we should not rule out securing consultants in a particularly technically challenging case. The same should hold true for the DAG assigned to the Law Enforcement and Ethics Committee "prosecuting" the case. If necessary outside specialized legal assistance should be brought to the table. A key point in the process deserving refinement is the coordination of the prosecution of the case. Here again outside legal assistance would improve on the speed of the process cutting the backlog of lingering cases as well as the professionalism of the presentation.

In summary, I am seeking interested members to serve as technical assistants to an investigator. If you are inclined, please contact our Director Ms. Abshagen and let her know your area of expertise so she can start a database for future use by the Law Enforcement and Ethics Committee. As I said earlier, we are the only self-regulated Board in the US and it is our obligation to best protect the health, safety and welfare of the public by continuously improving our processes. Looking forward to hearing your feedback.

EXECUTIVE DIRECTOR'S REPORT

By Peggy Abshagen

What constitutes an acceptable course for continued professional competency? Must courses be college approved? Is credit given for online courses? Do outreach activities count? Do activities in the normal course of work activity count? Must everyone take an ethics course? depends; no; yes; yes; no; and yes!

DAPE decided not to pre-approve courses or providers in its CPC program. Instead it is relying on the integrity of its membership to review the CPC guidelines that were developed and approved to determine whether the course/program/activity should be considered to meet the intent of the CPC program.

In its review of enforcement matters, it is clear that some deviation in acceptable ethics is occurring with frequency. As a result, the guidelines clearly state that at least 3, and no more than 6 pdh's are required in **ethics** each renewal cycle. No more than 9 pdh's should be **business or project management** related. The remaining pdh requirement may consist of building design, legal issues, health & safety, environmental, renewal energy, failure investigation, and the endless list of topics that will provide "regular exposure to active technical practice, participation in technical, professional and ethical training, and participation in professional and technical societies assuring that professional engineers are exposed to new ideas and keeping their skills current. The requirement that all professional engineers must participate in such activities is meant to further safeguard the health, safety and welfare of the public." (*A direct quote from the CPC guidelines statement of purpose.*)

So, the next time you ask whether a particular course or provider will be accepted in your quest to meet the CPC requirements, please understand we will not pre-approve any course or provider, but will instead refer you to the very detailed CPC guidelines that are available on our website.

We are currently seeking additional opportunities to assist our membership in meeting their CPC obligation. Stayed tuned!

DAPE COMMITTEES AND THEIR TASKS

The various responsibilities of DAPE are carried out by its committees, whose responsibilities are outlined in the bylaws.

The **Examining Committee** is not only responsible for the exam administrations, it also meets routinely to review the credentials of all applicants for licensure, either by comity or exam. Recommendations are then forwarded to Council for action. This committee is currently chaired by **Carmine Balascio, P.E.** and **William Balascio, P.E.**

The **Law Enforcement/Ethics Committee** meets monthly to review and investigate any complaints of potential violations of the law or Code of Ethics. Committee recommendations could include filing a formal complaint, scheduling a hearing, or dismissal for lack of sufficient evidence to support the allegation. Chair **Keith Kooker, P.E.**, along with Co-Chair **Theodore Thomson, P.E.** assist the committee in formulating their recommendations.

The **Finance Committee** is responsible for developing the annual budget, reviewing the auditor's report and recommendations and development of investment strategies with the advice of its Financial Advisor. Vice President **Daniel Barbato, P.E.** chairs this committee in accordance with the bylaws.

The **External Affairs Committee** works with other state agencies, organizations, individuals where overlaps of practice may involve engineering. The Joint Advisory Committee (JAC) with the architects resulted in working with other state boards. **Robert Hayden, P.E.** chairs the External Affairs Committee. **Daniel Barbato, P.E.** and **Soheil Gharebaghi, P.E.** are the DAPE representatives on the JAC.

The **Bylaws Committee** is charged with reviewing the Association bylaws to keep current and making appropriate recommendations to Council prior to sharing with the membership for vote.

The **Government Affairs Committee** liaises with government and prepares any necessary revisions to the law for Council's consideration, prior to submittal to the legislature. **Ronald Smith, Esq.** and **John Tracey, Esq.** chair this committee.

The **Public Information Committee** is responsible for this newsletter and is tasked with reporting news and updates to the membership, etc. Currently, **Soheil Gharebaghi, P.E.** chairs this committee.

The **Facilities Committee**, chaired by **Robert Wheatley**, insures that the DAPE facility and equipment needs are met.

It takes many DAPE members to staff each of these committees to accomplish the necessary tasks to insure we continually offer the membership, and the general public of Delaware top-notch service in the regulation of the engineering profession.

The dedication and endless hours devoted to the profession by our membership is applauded!

2014-2015 Committee Members

Council approved the following committee member appointments:

Examining Committee:

Carmine C. Balascio, P.E. – Chair
William D. Balascio, P.E. – Co-Chair
Robert Allen, P.E.
Nicole Gallagher Burkhardt, P.E.
Robert A. Chagnon, P.E.
James S. Davidson, P.E.
Daniel Koffler, P.E.
Colin Kraucunas, P.E.
Meghan Lester, P.E.
Michael Siwek, P.E.
B.J. Song, P.E.
Adam Weiser, P.E.
Daniel Zmijewski, P.E.

Law Enforcement/Ethics Committee:

Keith R. Kooker, P.E. – Chair
Theodore Thomson, P.E. – Co-Chair
James S. Davidson, P.E.
Ana Diaz, P.E.
Thomas J. Kiefer, P.E.
Daniel Koffler, P.E.
Robert Leitsch, P.E.
Robert T. MacIntosh, P.E.
John Mayan, P.E.
Charles L. McAllister, P.E.
Arkan Say, P.E.
Keith Rudy, P.E.

GET TO KNOW THE DAPE COUNCIL MEMBERS...

Did you know

President **Hans Medlarz** is an honorary member of the Springfield, PA high school class of 1974 since he and his wife have attended all reunions.

Vice President **Dan Barbato** is a CrossFit athlete and competitor and has identical twin sons.

Secretary **Ted Thomson** lives CrossFit!

Treasurer **Keith Kooker** has played in local competitive tennis leagues and tournaments for more than 20 years.

Immediate Past-President **Charlie McAllister** collects model trains and has a layout with several different gauge trains.

Carmine Balascio hikes, bikes, and bird watches.

Bill Balascio enjoys cross-country skiing, kayaking, biking and hiking.

Soheil Gharebaghi spends time with his grandbabies, plays racquetball and 12-gauge shot gun skeet and trap shooting at Dover Air Force Base.

Bob Hayden grew 10" in about 18 months when he was a senior in high school.

Mike Lennon is #43 out of 45 grandchildren (on his father's side of the family); a tennis player; and a fan of live music!

Meghan Lester likes to travel and hike. One of her favorite places is Death Valley, where she has come across coyotes and tarantulas. And discovered a great place to star gaze!

John Ludman enjoys coaching youth sports, managing the Newark National team that participated in the 2013 Little League World Series.

Erik Retzlaff's father was born in the town of Amorbach, in the Miltenberg district of Lower Franconia in Bavaria, Germany and immigrated to the U.S. in the mid-1950's, settling in Greenwood, Delaware.

Ron Smith's hobbies include politics, civil war history and travel.

John Tracey enjoys deep sea fishing and is a member of the Int'l Game Fishing Association's Billfish Super Grand Slam Club for catching a blue marlin, white marlin, sailfish and spearfish!

Bob Wheatley loves to cook. His specialties include BBQ or smoking anything, whole-frying turkey "or other large objects", and baking – especially cheese cake.

(Editorial note: Getting engineers to talk about themselves was no small task!)

NCEES UPDATES

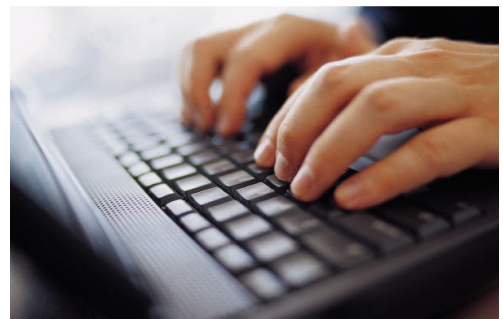
Exam News – The **PE Civil** exam has new specifications starting in April 2015. There are also new design standards for the **Civil Construction, Geotechnical, Structural** and **Transportation** modules starting in 2015.

The PE Agricultural exam was renamed the **PE Agricultural and Biological Engineering** exam, which has new specifications starting in April, 2015.

All specifications and standards are available on the NCEES website.

FE Exam News – The 2014 computer-based FE exam has been administered to 140 Delaware examinees to date, of which 57% (80) passed and 43% (60) failed.

Examinees are required to register with NCEES and then select a date and location at an approved Pearson Vue computer testing center. The FE exam contains 110 multiple-choice questions and is offered in seven disciplines: Chemical, Civil, Electrical & Computer, Environmental, Industrial, Mechanical, and Other disciplines. Exam appointment time is 6 hours long, which includes a tutorial, exam and a scheduled 25-minute break. Exam results are released weekly.



LAW ENFORCEMENT ACTIVITY

The Law Enforcement/Ethics Committee over the past several months has been successful in getting many of its cases resolved by various means:

- ✓ **21** cases were resolved by working with firms to get them into compliance with the law. Seventeen of these firms obtained a Certificate of Authorization; 1 firm was issued a Temporary Permit; and 3 firms revised or cancelled their business license in Delaware.
- ✓ **1** case was resolved by revision of the firm's website to eliminate any reference to engineering practice in Delaware.

Case 14/088 -- Nangia, Robert V. (#15949)

An **Administrative Order** was issued for the licensee's conduct in violation of Oklahoma's engineering statutes. Specifically, signing and sealing design drawings and calculations which were not prepared by him or under his direct control and personal supervision. Also, his firm was providing engineering services without a Certificate of Authorization. As these violations constitute sufficient grounds for disciplining Mr. Nangia in accordance with Delaware law, he has been formally reprimanded.

A number of other investigations are pending. The Committee has issued numerous subpoenas to obtain the evidence needed to assist in our investigations. Other Orders have been issued, but are still pending and will be reported in future issues of this newsletter.

MEET OUR NEWEST COUNCIL MEMBER ...



Ronald D. Smith, Esq. has been appointed by the Governor to fill the Kent County seat effective September 1, 2014.

A University of Delaware graduate with dual majors in Economics and Political Science, and the Delaware Law School of Widener University, Ron served on the Levy Court Commission from 1990-2006, as President, Vice President and

Finance Chair. He currently serves as senior attorney to the Delaware House of Representatives.

Practicing with the law firm of Hudson, Jones, Jaywork & Fisher since 1979 and a partner since 1986, Ron is also active with the Central Delaware Chamber of Commerce, the Greater Dover Committee, the Delaware Business Exchange, and a Real Estate Instructor with Delaware Technical and Community College.

Ron resides with his wife of 40 years, Alice, and they have two sons (Mason and Kevin) and a new grandson (Cole) as of 10/27/2014.

We are looking forward to working with Ron during the next four years of his term on Council and anticipate his contributions on many issues.

NO EXPERIENCE REQUIRED ??

By William D. Balascio, P.E.

In August members of your DAPE Council travelled to the 2014 Annual NCEES (National Council of Examiners for Engineers and Surveyors) meeting in Seattle, Washington. It is at the annual meeting that all of the state licensing boards, for engineering and surveying, have the opportunity to coordinate policy, modify the NCEES Model Law, and take part in many other licensure-related activities. If you are not familiar with the NCEES, I encourage you to take a good look at the website, where you can download the Model Law and other important documents.

What is the Model Law? It is just that, a model to be held out to each state board or council to serve as a guide for development of state laws and guidelines. It is not binding, since there is and most likely never will be a "national" PE license in the United States, but it is meant to serve as a tool that will aid in facilitating state to state consistency.

One of the changes to the Model Law that was approved in this year's annual meeting was in the wording of the law to support an action that was approved at the previous year's annual meeting. This change is the removal of experience as a requirement for taking the Principles and Practice of Engineering (P&PE) exam – the second of the two exams that must

be successfully passed in order to become licensed as a professional engineer. With this change, it is no longer required to have four or more years of experience to take the P&PE exam. The most common pathway would require an ABET accredited Bachelors of Engineering degree and successful completion of the Fundamentals of Engineering (FE) exam as the only prerequisites.

While it is generally accepted that someone has the best chance of passing the P&PE after four years of experience, it was argued that among other benefits, making this change could potentially increase the ranks of professional engineer licensees. It is felt by some that allowing for taking of the test before experience is gained would help to retain people in the profession who might otherwise become diverted if they are required to wait for 4 years.

Please understand that the same amount of professional experience is needed before a license would be granted – that requirement was not removed. No one would be licensed before completing the currently mandated years of engineering experience, and the P&PE exams will still be designed to test knowledge of the practice of engineering. The value of experience is not being diminished.

How does this change in the Model Law affect us in Delaware? That is a good question, and it might not have, but the outgoing NCEES president, Patty Mamola, charged us with not voting for any change that we would not try to implement in our own states. By voting to make changes in the Model Law that we have no intention of enacting at home, we guarantee that our state laws will grow further apart from the Model Law and by extension every other state's laws.

In response to that challenge, Delaware is considering making this change to our law. We have had several lively discussions during Council meetings and the outcome is by no means assured. I participate in an ad-hoc committee that has looked at our law and bylaws, and we could implement the change with very little effort – small modifications to a few sentences. We can, but should we? What do you think? If this is a subject on which you have an opinion that you would like to share with Council, I encourage you to do so. Contact DAPE at office@dape.org.

*THE DAPE COUNCIL
AND STAFF WISH YOU
AND YOUR FAMILIES
THE HAPPIEST HOLIDAY
SEASON!*



2014-2015 COUNCIL MEMBERS

		
C.C. Balascio, P.E. Education Seat	W.D. Balascio, P.E. Electrical Eng. Seat	D.P. Barbato, P.E. "Other" Eng. Seat
		
S. Gharebaghi, P.E. Kent County Seat	R.E. Hayden, P.E. Mechanical Eng. Seat	K.R. Kooker, P.E. Private Cons. Seat
		
M.A. Lennon, P.E. Chemical Eng. Seat	M. Lester, P.E. New Castle Co. Seat	J.P. Ludman, P.E. Industry Seat
		
H.M. Medlarz, P.E. Gov't Emp. Seat	E.F. Retzlaff P.E. Sussex Co. Seat	R.D. Smith, Esq. Apptd.-Kent Co.
		
T.A. Thomson, P.E. Civil Eng. Seat	J.E. Tracy, Esq. Apptd.-New Castle	R.C. Wheatley Apptd.-Sussex Co.

Council Executive Committee

Hans M. Medlarz, P.E., **President**
Daniel P. Barbato, P.E., **Vice President**
Theodore A. Thomson, P.E., **Secretary**
Keith R. Kooker, P.E., **Treasurer**
Charles L. McAllister, P.E., **Immed.Past President**

Council Members

William D. Balascio, P.E., Electrical Engineering	8/31/15
Keith R. Kooker, P.E., Private Consulting	8/31/15
Soheil Gharebaghi, P.E., Kent County	8/31/15
Carmine C. Balascio, P.E., Education	8/31/16
Robert E. Hayden, P.E., Mechanical Engineering	8/31/16
Erik F. Retzlaff, P.E., Sussex County	8/31/16
Daniel P. Barbato, P.E., "Other" Eng.	8/31/17
Hans M. Medlarz, P.E., Government Employment	8/31/17
Michael A. Lennon, P.E., Chemical Engineering	8/31/17
John E. Tracey, Esq. -- New Castle Co. -- Apptd.	8/31/17
Ronald D. Smith, Esq. -- Kent Co. -- Apptd.	8/31/18
Meghan Lester, P.E., New Castle County	8/31/18
John P. Ludman, P.E., Industry	8/31/18
Theodore A. Thomson, P.E., Civil Engineering	8/31/18

Charles L. McAllister, P.E. – Advisory Role

Council Staff:

Peggy Abshagen
Executive Director

Lauren Thomson
Executive Assistant

Council Office:

92 Read's Way, Suite 208, New Castle, DE 19720
(302) 323-4588 (302) 323-4590 – FAX
e-mail: office@dape.org website: www.dape.org



**DELAWARE ASSOCIATION OF
PROFESSIONAL ENGINEERS
92 Read's Way, Suite 208
New Castle, DE 19720**