

News from Delaware's Licensing Council for Professional Engineers Spring/Summer 2011

<u>PRESIDENT'S MESSAGE</u> By Gregory Pawlowski, P.E.

One of the most active committees at DAPE is the Law Enforcement & Ethics. In my last message, I intentionally skirted the responsibilities

of this committee in order to give them greater coverage in this newsletter. As the title implies, this group is entrusted with investigating violations of the Code of Ethics as well as the laws set forth under the Delaware Professional Engineer's Act. Part of the preamble to this act states its purpose is to safeguard life, health, and property and to promote the welfare of the public. I sincerely believe all engineers make every effort to meet this obligation in their duties. So if all engineers make every effort to conduct their services in this manner, why do some end up with charges brought against them? Keep in mind not all offenses result in serious verdicts. The answer may lie with each engineer's definition of *Quality of Work*.

Most dictionaries define quality as "an essential characteristic, property, or attribute" which is a factor all engineers should make every effort to attain in the tasks they perform. But quality engineering is made up of two key factors – competency and integrity. Competency revolves around possessing education and experience to make a safe design, while integrity refers to an engineer's desire to carry out the end product of their design. There are four combinations of these two factors which define an engineer's Quality of Work and may better explain their relationship. It should be pointed out that three of these combinations will result in varying degrees of violation by DAPE through the LE&E Committee:

- 1. An engineer has the competence to turn out a safe design and then follows through with plans that illustrate this competence. Clearly this is what we want all engineers to do and no violation is in order.
- 2. An engineer has the knowledge and experience to competently design but incorporate chooses less to than recommended standard factors of safety, specify lower grades of materials, or willfully interprets a code in a questionable manner. Often the reason for this has to do with trying to please a client's budgetary concerns over the concerns of the preamble listed above. Engineers caught conducting their profession in this fashion will be prosecuted for violating Section 2823(a)2 - Misconduct in the practice of engineering, and Section 2823(a)3 - Violating the code of ethics. Both of these violations carry penalties anywhere from reprimand and \$250.00 fine to revocation and a \$5,000.00 fine for each incident.
- 3. An engineer does not possess adequate knowledge and experience to competently design and proceeds to submit, to the best of his ability, a set of plans for construction. In this case, there is a desire to do the right thing but unfortunately the engineer doesn't know what the right thing is. As innocent as this scenario appears, the engineer will be charged with violating Section 2823(a)2 Incompetence and Section 2823(a)3 Cannon 2 The engineer shall perform services only in areas of his competence . . . if discovered. Penalties carry the same weight as the previous violation.

4. Lastly, an engineer who knowingly practices outside his expertise, assuming they have one, then continues to submit plans they unmistakably know are incorrect have neither the competency nor the integrity to perform their duties. Most of us reading this would consider this scenario to be gross negligence. Engineers of this type would be prosecuted for violating Section 2823(a)2 – Gross negligence and Section 2823(a)3 Cannon 2 – The engineer shall perform services only in areas of his competence . . . when they are caught. And they will be caught! Once again penalties are the same as above.

It would appear the penalties fail to differ regardless of the violation's severity. What really differentiates the penalty between each scenario above are aggravating and mitigating circumstances within the investigation. Both types can be found outlined in the licensure law book available on our website at www.dape.org and be readily handy.

Having proper knowledge of the engineering practice and following through with the public's protection squarely in mind are the two key factors to performing quality engineering. As previously stated, most engineers strive to perform quality work but should be made aware of instances where they could be subject to violations. When the client's needs or personal greed begin to cloud your interpretation of codes and standard design procedures, you may be venturing close to the violation line. Remind yourself of the time and hard work you put in to arrive at this point in your career and don't do anything to jeopardize it. *Quality of Work* is something we should always do our utmost to practice.

MESSAGE FROM THE EXECUTIVE DIRECTOR By Peggy Abshagen

The summer months in the DAPE office are always busy times. We are either renewing PE or CA licenses, or we are prepping for the next exam administration. We have not experienced a decrease in the number of applications that we have processed during the country's economic turmoil. It has been business as usual.

Before you pick up the phone to let us know you have not received any PE license renewal information from our office, please note that if you are receiving this newsletter, your license is valid through 6/30/12. Confirmation of this can be obtained on our website at www.dape.org – Professional Engineers – PE Roster.

Firms, on the other hand, are in the midst of renewing their Certificates of Authorization. To date we have renewed 650 of the 965 renewals received. The remainder of these renewals is being processed as quickly as possible.

Readers . . . if your firm is providing engineering services in Delaware, a Certificate of Authorization is required. Believe it or not, we have more than 100 investigative files open on firms that have been advertising or providing engineering services in the State without a C/A. This is unlicensed practice! We are working to assist these firms to come into compliance with the law. You can assist us by insuring your firm, as well as the other firms you are working with on projects, are in compliance. Again, you can confirm compliance on our website at www.dape.org – Certificates of Authorization – CA Roster.

DAPE actively pursues unlicensed activity. We will identify those firms practicing unlicensed and prosecute to the fullest extent of the law!

[&]quot;Structural engineering is the art of molding materials we don't wholly understand, into shapes we can't fully analyze, so as to withstand forces we can't really assess, in such a way that the community at large has no reason to suspect the extent of our ignorance."

....Jim Armenia



A Faulty Engineered Design Due to a Software Bug --Who's Responsible?

By, Robert A. Chagnon, P.E., SECB

Introduction: This writer recently was called upon to look into what appeared to be the gradual progressive failure of the roof at an upscale country club's relatively new banquet facility. Following an on-site observation and three quarters of a page of hand calculations, the truss-framed roof was deemed to be significantly under designed. It was not what the country club's management wanted to hear since it meant a shut-down period of several months, thousands of dollars of repair costs, and the cancelation of many scheduled events at a significant loss of income. When all involved parties met to assess the situation (which included a battery of attornevs). the structural engineering responsible for the design of the roof trusses owned up to the fact that they had discovered that the trusses' faulty design was the result of a bug in the software program used for the design.

Bit by a Bug. Wikipedia, the free encyclopedia, states that a software bug is a common term used to describe an error, flaw, mistake, failure, or fault in a computer program or system that produces an incorrect or unexpected result, or causes it to behave in unintended ways. It goes on to state that most bugs arise from mistakes and errors made by people in either a program's source code or its design, and a few are caused by compilers producing incorrect code.

Is This A Common Problem? More common than one might wish to believe. A few years back, the National Institute of Standards and Technology (NIST) lead a study that showed that software bugs or errors cost the U.S. economy an estimated \$59.5 billions annually, or about 0.6% of our gross domestic product at the time. The software industry's typical measure of quality for developing software programs is the number of errors per thousand lines of code. Typically programmers leave around 50 errors per thousand lines in the codes that they write for their testing phase of development to weed out. Studies indicate that less than 75% of programming errors are discovered during a

program's testing phase, leaving the program users (us) to stumble over the remaining 25%. However, the industry claims that fixing an error discovered by program users costs as much as 100 times as much as catching it while in its development stages. As a result, there's little incentive on relying on the software developers to up-grade their programs for purposes other than introducing features that enhance their marketing advantages.

Is It All A Coding Problem? No, the user obviously has to be knowledgeable of what it is that he or she is calculating and what input data is relevant to the issues of concern. There lies the problem. The failure to properly do this is what contributed to the failure of the Hartford's civic center stadium's space framed trusses when subjected to heavy snow loads back in '78, and more recently, the structural failure of the sports stadium at Kuala Terrengganu, Malaysia, just to mention a couple of failures that made the headlines internationally. On the local level, every engineer accused of falsely rendering masonry foundations walls, that also functioned as retaining walls, to being structurally sound (and there have been a few) provided DAPE with computer program analyses that included the building's live loads as being actively involved.

They failed to recognize that the walls involved were more subject to being laterally affected when no live loads existed and simply included the live loads because the computer program being used asked for such. In these cases, the more the masonry blocks were in compression, the less likely could they be displaced by lateral forces acting thereon.

Whose Liability Is It? In cases involving computer bugs that lead to the malfunctioning of some mechanical or medical processes, the program developers were mostly found to be at fault. However, in cases involving engineering designs, the complexity of the procedures involved and the degree to which the analysis results could be interpreted and assessed plays an important part in establishing fault. This is why it's imperative for voung engineers to recognize the importance of having to run some numbers by hand (assuming that they know how) to give them some idea as to what the order of magnitude results should be before punching it all into the computer. We old guys knew this beforehand back when we had to come up with where the decimal point was going to be, via scientific notation, back when we used a slide rule. Gone are those golden days of past.

What's The Answer? Here are some guidelines offered by forensic experts that have served on panels that have investigated many tragic engineering failures:

- Do not over use software in Engineering or Structural Analysis unless you know exactly what you are doing and have a good feel as to what you expect the results of be.
- Be aware that stability is 3D while most engineering analysis is 2D. Even a lattice girder is a 3D structure even though we design in 2D.
- Trust your gut. That's part common sense, part experience and part engineering. If it doesn't look quite right, take a second or third look and consult with your peers.
- Always check drawings produced in AutoCAD form, not once but several times particularly on critical structures. With ease of CAD systems, changes could be accidental.
- Field check your designs, even if you are not contractually involved with construction services. Putting it down on paper is easy, seeing it in the field may bring up other thoughts in time to avoid serious problems. Site conditions or their surroundings may make your design criteria obsolete.
- Design for the Future. This writer's near 40 years in the business has taught him that design loads never seem to go down. Occupancy use changes always seem to require a structure to take on greater loads. Should you depend on a site to have a category B exposure because it's surrounded by trees? Just how long will those trees always be there?
- Be Conservative in Design--don't attempt to design everything based on collapse or limit state using factors of safety such as those below 1.6 and 1.4. Retaining walls become complex because of earth pressure uncertainty so a factor of safety of 2 or 3 becomes reasonable. End result-you'll sleep better.



TIMELY LICENSE RENEWALS

By David G. Clark, P.E.

Although this is not a renewal year for PE licenses, firms are in the midst of renewing their Certificate of Authorization (C/A) for the practice of engineering in Delaware.

§2802 of the Delaware Code Title 24 Chapter 28 (The Delaware Professional Engineers' Act) states that "It shall be unlawful for any person to practice or offer to practice engineering unless such person has been duly licensed, authorized, or exempted under this chapter."

If a licensee or holder of a C/A desires to continue to **offer** or **practice** engineering , that C/A must be renewed timely. All C/A's expire on June 30th of each year. (PE licenses expire on June 30th of the even-numbered years.)

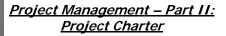
The law requires notification to all licensees at least 30 days prior to the expiration of a license. DAPE provides at least 45 days' notice, and has invested significant resources for all licensees to renew at their convenience during the specified renewal period directly on our website (www.dape.org). Also, second reminders are sent to all those that have not renewed midway through the renewal window.

Delaware law states licenses not renewed by **September 30**th will be removed from the active roster. This provides 5+ months for licensees to renew. Significant penalty fees are required for reinstatement of licenses. Reinstatement requests are reviewed by the Examining Committee and considered by the Board monthly. If an individual or firm practiced engineering without a license, this is now a case for investigation by our Law Enforcement/Ethics Committee.

Offering or practicing engineering without a license is a serious offense. When licenses expire on June 30th, they expire on June 30th!

DAPE has worked hard to make the renewal process a seamless one, but if it is not done according to procedure, you have created additional work and consternation. By following the outlined procedure, DAPE avoids prejudice and treats all of the DAPE members equally and fairly.

By the way, if you have not visited our website recently, you should certainly do so. If you are listed on the PE or C/A Roster, your license is current. If you are not, your license is either Inactive or Delinquent. (Inactive status is requested by the licensee; Delinquent status is a default when the licensee is not heard from.)



By Gregory G. Pawlowski, P.E.

Congratulations! You have just been given a new project to

complete by your boss. So what's next? Keep in mind that a project, as defined by the Project Management Institute (PMI), does not necessarily refer to construction. Those who are designers work on projects in their discipline all the time. So what are the next steps according to PMI? And what terminology does PMI use to describe them?

If there is a project there must be a client, also known as a stakeholder. Stakeholders are those who have a vested interest in your project. As a DelDOT employee, you the reader are just some of my construction project's stakeholders. Before reaching this point there may or may not have already been a feasibility study done and we will proceed as if it has. The next step is to compile Project Charter Inputs. These inputs may encompass a contract (if applicable), project statement of work, enterprise environmental factors, and organizational process assets. While unfamiliar and cumbersome as these may sound, most likely you or another member of your team has been doing them on all your previous projects. One of PMI's goals is to identify and organize every step of project management so bear with me on these little steps.

The Project Statement of Work explains the product or service the project is entrusted to complete such as business need, description of scope, and expected outcomes of the project. DelDOT, being a public entity, couldn't possibly move forward on obtaining funding for a project without this, referred to as a Purpose and Need Statement, in place first.

Enterprise Environmental Factors are those factors coming from the outside that have a significant influence on the success of the project. Included are the structure of an organization, governmental or industry standards, marketplace conditions, and stakeholder's risk tolerance. Organizational Process Assets pertain to standards and guidelines an organization follows in the performance of its duties. Inclusive are historical information, such as past project budgets versus overruns and planned versus actual schedules, which can be extremely important organizational process assets for obvious reasons.

Let me emphasis that the steps delineated above are not always the responsibility of the project manager nor do they necessarily require extensive time and resources to develop. It is more important for these to be thought out and documented in some fashion and are indeed performed by most project managers. The focus of this article is to bring attention to what steps and terminology are in use by PMI, their importance to successful management, and to ensure they are addressed on each project in some manner.

FORTY NEW PROFESSIONAL ENGINEERS!

The April, 2011 exam administration produced 40 new professional engineers. After successful passage of the Principles & Practice of Engineering examination, the following individuals will be approved for licensure at the July 13, 2011 board meeting.

Alexander, Benjamin	#17216
Bakhtarwala, Falgun	#17100
Baldwin, Jeffrey	#16443
Behrens, Bryan	#17030
Bochanski, Julie	#17005
Calloway, Diane	#16916
Carroll, Brian	#17110
Caruano, John	#16847
Chatterton, Timothy	#15702
Chheda, Sudhir	#16654
Costantino, Rebecca	#14928
Doyle, Erick	#16664
Drenne, Todd	#16633
Elmalt, Said	#17141
Eriksmoen, Kris	#16479
Fessler, Michael	#17179
Greengas, Rachel	#15814
Joyner, Orion	#16076
Kobos, Ryan	#16781
Kocenko, Lynsey	#16605
Li, Charles	#15683

#16765
#17245
#16645
#17244
#16939
#15906
#15840
#16783
#15764
#17006
#17264
#13469
#14478
#16785
#16159
#17011
#17266
#17129
#16440

CONGRATULATIONS!!!!

NEW ENGINEER INTERNS

Following the successful passage of the April, 2011 Fundamentals of Engineering examination, the following individuals have been awarded Engineer Intern status:

Adelmann, Joseph Aiello, Lawrence Anderson, Christopher Arguello, Alexander Arpino, Salvatore Aten, Alex Bailey, James Baker, Andrew Baldan, Adam Barber, Meghan Beck, Warren Becker, Matthew Beckley, Seth Bederson, Shane Bert, Eric Biebel, Steven Boland, Joseph Bosworth, Daniel Bowers, Patrick Braga, Stacey Bucci, Thomas Buda-Ortins, Krystyna Campbell, Michael

Abedi, Alicia

Choudhury, Rabindra Cimino, John Clark, Daniel Clunie, Jonathan Colman, Matthew Collahan, James Culver, Bradley Davies, Meredith Delia, Christopher Dietz, Katherine Dinkel, Alex Dubinski, Patrick Ebersberger, Timothy Enea, Daniel Falance, Stephen Farrell, Brandon Foley, Michael Fortier, Michael Foster, Tyrell Friedrich, Sarah Furr, Robert Gardner, John Gause, Gregory Gilligan, Michael Goldwasser, Michael Golematis, Anne Gorgas, Peter Grim, Luke Gygrynuk, Kevin Hamilton, Alexander Hang, Annie Harkness, Kevin Harrington, Tyler Harris, Daniel Hart, Colleen Hatfield, Charles Havener, Lauren Heston, William Hiraesave, Vijaeth Honeychuck, Michael Honohan, Catherine Hospod, Michael Hunt, Charles Hunt, Sean Ilaria, Robert Incontrera, Michael Jenkins, Evan Jensen, Kyle Jia, Yan Jones, Curtis Kadakal, Tuncay Kasian, Christopher Katona, Russell Kelly, James Khawaja, Adnan Kopmann, John Laybourne, Mindy

Levendosky, Keith Levy, Ian Lugo, Jeffrey Mandes, Galen Mann, Steven Martinez, Nicholas Maxey, Joseph McDermott, Brian McMahon, Daniel McVeigh, Kelly Megyeri, Aron Mohan, Bryan Mulrooney, Thomas Natale, Joseph Nti-Gyabaah, Richard O'Neal, Jonathan Oleksiak, Matthew Olsen, Kelsey Olson, Lindsey Pantaleo, Evan Pavel, George Piacente, Nicholas Piccillo, Justin Pinciotti, Rebecca Pittman, Kelvin Posluszny, Gabriel Powell, Tracy Pugh, Lauren Randall, Kyle Readdy, Richard Rector, Matthew Redy, Kristopher Roach, Ariel Robinson, Paul Rodriguez, Jose Rose, Boyd Russo, Christopher Sandiford, Teresa Sauter, Eric Schinasi, Jeremy Schmaling, Alycia Schwandt, Stephen Shah, Jignesh Sienkiewicz, Adam Simpson, Lisa Sipola, Matthew Sobin, Craig Stafford, Geoffrey Stager, Adam Stevenson, Greggory Sun, Jessica Taylor, Sarah Teixeira, Andre Theising, Michael Tran, Kevin Tryner, Jessica

Twagirayezu, Yves

Ungarao, Emmanuel Vincent, Steven Weaver, Eric Williams, Michael Wollaston, Dana Yi, Casper Zapata, Alejandro Zee, Jeremy Ziemblicki, John Zimmermann, Jennifer

CONGRATULATIONS!!!!

CALLING ALL PROCTORS

Believe it or not . . . the October exam administration is right around the corner, and we are soliciting proctors for **Friday**, **October 28th and Saturday**, **October 29th**. Come join your peers in volunteering a few hours for future engineers and enjoy the opportunity to meet other DAPE members and provide a valuable service to the profession.

If you are a rookie, we'll train. If you're a veteran, we'd love to have you back. We'll even provide you with lunch! Please contact our office at office@dape.org to volunteer your time!

LAW ENFORCEMENT CORNER:

DAPE vs. John B. O'Connell, P.E.

On November 16 and December 7, 2010, the DAPE Hearing Panel convened a hearing in the matter of John B. O'Connell, P.E. (Case 09/094). This case concerned a residential inspection and the provision of as-built drawings for a residential addition.

The inspection report indicated the property was code compliant, when in fact, it was not. The asbuilt drawings indicated the structure met code, without any qualifications for what O'Connell did not do or see, thereby expressing a professional opinion on inadequate knowledge of the facts.

O'Connell was found guilty of violating Canons 1B and 3B of the Code of Ethics, as well as 24 Del. C. §2823 (a) (3) and was assessed an administrative penalty; issued a warning letter; and is required to successfully pass an approved course in ethics within one year.



<u>CONTINUED PROFESSIONAL COMPETENCY</u>
<u>(CPC)</u>
By Guy F. Marcozzi, P.E.

Something happened at the DAPE Council meeting in June that will affect every licensee in Delaware. Council passed the following resolution:

"DAPE Council resolves to enact requirements for all licensees to enter into a mandatory Continued Professional Competency program with the licensure year beginning June, 2014. As part of the legislative changes, DAPE will pursue the creation of a "retired" status and will not require "retired" members to pursue continued professional competency."

Why did Council pass this resolution and what does it mean to you?

DAPE Council has been discussing mandatory Continuing Professional Competency for more than a decade. In the last year or two, it became apparent that a vast majority of the current Council is in favor of mandatory CPC of some sort. A consensus has not been formed about the details of the program.

Since mandatory CPC is such a significant issue and in real terms will be more impactful on individual licensees than most actions of DAPE, Council is compelled to start creating awareness of its intent well in advance of any action taking place. By passing this resolution, Council commits itself to action and also to use this time before implementation to solicit broad input such that the final requirements will be both effective and practical.

Many questions about mandatory CPC need to be answered and many issues regarding Delaware's program still need to be resolved. A big question is how mandatory CPC actually increases competency. There are reasonable arguments that non-course learning actually leads to increased competency and our core mission of protection of the public health, safety and welfare. A prior DAPE study through an outside consultant concluded that additional and

required regular ethics training could improve service to the public.

Other issues include reliance on the NCEES Model Law version of mandatory CPC which should make reciprocity between States easier and possibly result in a reduced burden on Delaware registrants licensed in other states. However, rigorous attention of the Model Law may not be the best way to increase competency because it does not allow for many alternative forms of competency development beyond technical course work.

We will all benefit from the inflow of your constructive ideas on this topic and we are proactively looking for specific input from our licensees. Please take the time to organize your thoughts on mandatory CPC in Delaware and send them to us at office@dape.org. We'll endeavor to keep the discussion open such that you can follow our progress on this significant initiative.

NCEES UPDATE

<u>FE, FS EXAMS BEGIN TRANSITION TO</u> <u>COMPUTER-BASED TESTING</u>

At the August 2010 NCEES annual meeting, the state licensing boards that make up NCEES voted to begin converting the Fundamentals of Engineering (FE) and Fundamentals of Surveying (FS) exams to a computer-based format. The decision followed a prolonged study by a task force convened to research the issue. This transition will allow greater scheduling flexibility for examinees, more uniformity in testing conditions, and enhanced security for exam content.

The exams will be delivered through Pearson VUE's owned-and-operated network of Pearson Professional Centers and other select locations as determined by NCEES. Pearson VUE is a global leader in computer-based testing, with the world's most comprehensive and secure network of testing centers across 165 countries. It provides testing services for academic, government, and professional testing programs, including licensure exams for the National Council of State Boards of Nursing and the National Association of Boards of Pharmacy, as well as the GMAT. Pearson VUE is part of Pearson PLC, the largest commercial testing company and education publisher in the world.

The NCEES Computer-Based Testing Task Force is developing a comprehensive plan and timetable for the conversion. Currently, the plan is for the FE and FS exams to be offered in a paper-and-pencil format for the last time in October 2013. The computer-based exams will then begin being offered in early 2014. The PE and PS exams, which engineering and surveying candidates are required to take after completing work experience requirements, will continue to be paper-and-pencil exams for the foreseeable future.

Timeline for implementation of computerbased administration of FE and FS exams:

June to August 2011

- The FE and FS content reviews will begin; this is the process by which NCEES develops the exam specifications.
- · NCEES will review test center locations.

August 2011 to August 2012

- The FE and FS content reviews will be completed.
- The exam item banks will be assessed, and itemwriting sessions will be held.
- State licensure boards will review legislative rules and statutes for compliance with computer-based testing.
- New computer-based testing policies will be presented for adoption at the 2012 NCEES annual meeting.

August 2012 to August 2013

• Pools of questions will be developed for the initial administration of the exams in this format.

October 2013

 Paper-and-pencil FE and FS exams will be offered for the last time.

January 2014

• The FE and FS exams will be administered electronically for the first time.

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Be sure to notify the Council office.

The Delaware Association of Professional Engineers requests that you notify our office immediately of any change of address. Reporting a change of address is vital to ensure that you receive necessary renewal information and other correspondence important to your continued licensure. If you have changed your address, www.dape.org and update your records. Or you may complete the following form and email, mail or fax it to the Council office and we will update the records.

The Delaware Association of Professional Engineers (DAPE) is the contact agency for licensing, regulations and complaints for the engineering profession.

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

Change of Address Notice	
(Please print all information)	
License Number:	
Name:	
Old Address:	
New Address:	
Date:	•