Unlicensed Practice Complaints

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The Maine Board of Professional Engineers (Board) receives numerous complaints alleging engineering practice or solicitation of engineering work by an unlicensed person.

This article will describe why the Board or Attorney General’s office will often dismiss complaints the Board has received alleging unlicensed practice.

Maine law gives the Board jurisdiction over “Professional Engineers” and the “Practice of Professional Engineering.” Maine law does not give the Board jurisdiction over “Engineer” or “Engineering.” Any unlicensed person that appears to call or suggest they are a professional engineer or appears to engage in or solicit engineering services within the state of Maine may be in violation of the law.

Maine statutes define a professional engineer:

"Professional engineer" means a person who, by reason of a knowledge of mathematics, the physical sciences and the principles of engineering, acquired by professional education and practical experience, is qualified to engage in engineering practice as defined. 32 M.R.S. § 1251(4)

Accordingly, someone that states they are a “civil engineer graduate,” “railroad engineer,” “staff engineer,” “associate engineer,” “class II engineer,” or a host of other titles, degree names, or qualification names that contain the word ‘engineer’ or ‘engineering’ without also attempting to engage in engineering practice or solicit engineering services within the state of Maine are not in violation of the statute. The term ‘engineer’ and ‘engineering’ are not protected terms under Maine law.

The graduate that sends out resumes to prospective engineer employers and calls themselves an electrical engineer in their resume is not in violation of the law since they are soliciting employment rather than soliciting engineering services.

The “Plumbing Engineer” that donates money for the National Plumber’s conference and has her business card published in the annual meeting brochure of the National organization will not be presumed to be soliciting business in Maine if they have an Oklahoma address and telephone number listed on their business card that was published in the brochure.

The Board will not pursue discipline against a person that has a business card that gives the employer’s name (who is a licensed engineer), along with the person’s name and states they have a B.S. in civil engineering when it is apparent that any solicitation of engineering services accomplished using the card is for the employer or company that is properly licensed to practice engineering services.

Many complaints allege an unlicensed person is practicing engineering without necessarily calling themselves an engineer. A person that designs an HVAC system for a hospital and calls themselves an “HVAC Designer” may fall within the definition of the practice of
professional engineering. This person would likely be deemed to be practicing the profession of engineering without a proper license.

Maine law has defined the practice of professional engineering.

"Practice of professional engineering" means any professional service, such as consultation, investigation, evaluation, planning, design or responsible supervision of construction in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works or projects, wherein the public welfare or the safeguarding of life, health or property is concerned or involved, when such professional service requires the application of engineering principles and data. 32 M.R.S. § 1251(3)

An individual that designs and builds their own home and applies engineering principles is not engaged in the practice of professional engineering because “the public welfare or the safeguarding of life, health or property is” not “concerned or involved.” Had that same person offered to design and build their neighbor’s residence, they would likely be in violation of the practice of professional engineering since the “public welfare or the safeguarding of life, health or property is concerned or involved.”

The law contains numerous exceptions to the practice of professional engineering that allows an unlicensed person to practice professional engineering without being in violation of the engineer licensing law. For example, the engagement of an unlicensed individual working for a municipal public works department that constructs an $80,000 bridge would fall under an exception to professional engineering practice.

There is often an overlap between licensed professions. A licensed architect that designs a 50.5 million dollar high school would be practicing professional engineering but such practice in this situation is permitted for licensed architects since the engineering law can not prevent the practice of other legally recognized professions.

There are many gray areas of practice that are the basis for complaints alleging unlicensed practice that are received by the Board. For example, persons offering home inspection services have often been brought to the attention of the Board. In such cases, the Board must determine if the services involve: “professional services … requir[ing] the application of engineering principles and data.” If the home inspection is confined to reporting broken windows, cracked concrete, mold, water leakage, etc. engineering principles and data were not applied and the home inspector would not be practicing professional engineering. However, if the home inspector reported the outside bearing wall of the residence would not support a typical Maine snow load, engineering principles and data were applied and the home inspector would be deemed to be practicing professional engineering.

Perhaps surprisingly, many complaints involving unlicensed practice that do result in fines and penalties involve licensed professional engineers that allowed their license to lapse inadvertently while continuing to engage in engineering consulting work. The professional engineer that sent a proposal for an engineering design on 14 January after their license lapsed on 31 December and failed to renew their license until 24 January is likely guilty of the unlicensed practice of professional engineering.
Consider the information in this article before making a complaint to the Board regarding the unlicensed practice of engineering. After considering the points in this article and there remains a concern that there may be unlicensed practice, make a complaint to the Board. Vigilant professional engineers are the first line of defense preventing harm to the public caused by unlicensed practitioners. The Board appreciates the time and effort required to make a complaint, will treat each complaint seriously, and will diligently evaluate the complaint.