



Gazette

THE DEPARTMENT OF THE REGISTRAR, PEO

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the Association of
Professional Engineers
of Ontario

25 Sheppard Avenue W.,
Suite 1000
Toronto, Ontario
M2N 6S9
Tel: (416) 224-1100
(800) 339-3716

Editor: Eric Newton
Staff Contributors:
Roger Barker, P.Eng.
Ian Eng, P.Eng.

Certificate of Authorization: Do you need one?

Are you self-employed?

Do you do engineering work for someone other than your employer?

If you answered yes to either of these questions, you may need a Certificate of Authorization. The Certificate of Authorization (C of A), issued by PEO, is a licence that permits you to offer and provide engineering services to the public. The public in this case is considered to be any person or corporation with whom you have an arm's-length relationship. This may be a corporate client, a level of government, or an individual.

Are you offering or providing your services to the public?

A C of A is required if you:

- ◆ “hang out your shingle” as a professional engineer, advertise or promote yourself, either personally or through a legal entity, such as a company or partnership;
- ◆ provide engineering services to the public through the sale of a product that is custom-designed or an original (as opposed to an off-the-shelf product);
- ◆ are a full-time employee, but offer engineering services directly to the public on a part-time, moonlighting, or volunteer basis.

Under these circumstances, you should also, as a matter of professional courtesy, inform your employer that you are undertaking such work, to avoid potential conflicts of interest. As well,

you should provide your client with a written statement noting your status as an employee and the attendant limitations on your services to the client.

What about contract employees?

Many members have sought advice as to whether a contract employee must hold a C of A. The answer is generally no, although determining whether you are a contract employee or an independent contractor is sometimes difficult. In most cases, you do not require a C of A if:

- ◆ you work exclusively for one firm;
- ◆ you have set working hours;
- ◆ payment is in the form of salary or hourly wages;
- ◆ expenses are reimbursed;
- ◆ vacation pay is provided;
- ◆ you work at the firm's place of business, using its equipment;
- ◆ your work is covered under the firm's professional liability policy; and
- ◆ your employment contract addresses nondisclosure, ability to control work hours and time off, expectations related to performance, notice and termination.

If your situation meets some of these conditions, but not all of them, you should contact us to discuss whether you need a C of A.

Members should note that a C of A is required no matter what the size of the client or project, or how often the services are provided. It is also important to know that a C of A is required to offer engineering services. Obtaining a C of A (or retaining a C of A holder) after you've secured a contract is not sufficient.

Are the services you provide professional engineering?

The definition of the practice of professional engineering is:

- ◆ any act of designing, composing, evaluating, advising, reporting, directing or supervising;
- ◆ wherein the safeguarding of life, health, property or the public welfare is concerned; and
- ◆ that requires the application of engineering principles, but does not include practising as a natural scientist.

If your work meets all three criteria, it is professional engineering.

Requirements to obtain and hold a C of A

A C of A may be issued to individuals, partnerships or corporations. In each case, a professional engineer with at least five years of engineering experience must agree to take responsibility for the engineering works of the C of A holder. The C of A applicant must indicate the area of practice in which services are offered, and the designated engineer must provide a detailed résumé outlining his or her education and/or experience in the area of practice. C of A holders must carry professional liability insurance, or make a mandatory, written disclosure to their clients that they do not carry such coverage.

If you have questions about the C of A, or would like an application form, please contact: Johnny Zucco, P.Eng., director, professional affairs, or Angela Gallant, C of A program coordinator, at:

PEO, 25 Sheppard Ave. W., Suite 1000
Toronto, ON M2N 6S9
Tel: (416) 224-1100 or (800) 339-3716
Fax: (416) 224-8168 or (800) 268-0496.

Association of Professional Engineers of Ontario versus

Edward Gary Rodman

Enforcement Trial

At a trial in the Provincial Offences Court, London, Ontario, on October 15 and December 3, 1999 before His Worship R. A. Trachy, Edward Gary Rodman was found guilty of the following charges brought under the Professional Engineers Act:

◆ That on or about the months of July 1994 to September 1996 at London did commit the offence of using the title "engineer," an abbreviation or variation of the title "professional engineer" as an occupational or business designation, not being a person who was the holder of a licence or a temporary licence from the Association of Professional Engineers of Ontario, in representations to relatives

and a potential business partner, contrary to the Professional Engineers Act R.S.O. 1990, Section 40(2)(a).

◆ That on or about the months of July 1994 to September 1996 at London did commit the offence of using a term, title or description, being "engineer," that will lead to the belief that he may engage in the practice of professional engineering, not being a person who was the holder of a licence or a temporary licence from the Association of Professional Engineers of Ontario, in representations to relatives and a potential business partner, contrary to the Professional Engineers Act R.S.O. 1990, Section 40(2)(b).

Rodman has never been licensed as a professional engineer in the province of Ontario.

The association was represented by Dana M. Peebles of McCarthy Tétrault. The defendant was not represented by legal counsel and chose to conduct his own defence.

His Worship R. A. Trachy convicted Rodman on the two counts, after hearing evidence that Rodman had misrepresented himself on several occasions between the years 1994 and 1996 and, as a result of the misrepresentations, a member

of the public was led to the belief that he was licensed as a professional engineer. Rodman did not take the stand in his own defence.

Submissions with respect to sentence were made by Peebles and Rodman.

Rodman informed the court that he had been unemployed for four years, and that he was currently on social assistance. After hearing the submissions, his Honour imposed a fine of \$1,000 on each count and gave the defendant 180 days to pay both fines.

Note from Department of Legal and Professional Affairs

Rodman served a Notice of Appeal in December 1999. His Application for Appeal was denied by a judge of the Ontario Court of Justice in January 2000.

The Code of Ethics Blueprint for ethical practice

Following is PEO's Code of Ethics (Section 77 of Regulation 941 of the Professional Engineers Act) for your reference. An ideal to which all professional engineers should aspire, it is meant to guide PEO members in their professional practice and dealings with clients, employers, employees, associates and the public.

1. It is the duty of a practitioner to the public, to the practitioner's employer, to the practitioner's clients, to other members of the practitioner's profession, and to the practitioner to act at all times with,
 - i. fairness and loyalty to the practitioner's associates, employers, clients, subordinates and employees,
 - ii. fidelity to public needs,
 - iii. devotion to high ideals of personal honour and professional integrity,
 - iv. knowledge of developments in the area of professional engineering relevant to any services that are undertaken, and
 - v. competence in the performance of any professional engineering services that are undertaken. O.Reg.48/92
2. A practitioner shall,
 - i. regard the practitioner's duty to public welfare as paramount,
 - ii. endeavour at all times to enhance the public regard for the practitioner's profession by extending the public knowledge thereof and discouraging untrue, unfair or exaggerated statements with respect to professional engineering,
 - iii. not express publicly, or while the practitioner is serving as a witness before a court, commission or other tribunal, opinions on professional engineering matters that are not founded on adequate knowledge and honest conviction,
 - iv. endeavour to keep the practitioner's licence, temporary licence, limited licence or Certificate of Authorization, as the case may be, permanently displayed in the practitioner's place of business.
3. A practitioner shall act in professional engineering matters for each employer as a faithful agent or trustee and shall regard as confidential information obtained by the practitioner as to the business affairs, technical methods or processes of an employer and avoid or disclose a conflict of interest that might influence the practitioner's actions or judgment.
4. A practitioner must disclose immediately to the practitioner's client any interest, direct or indirect, that might be construed as prejudicial in any way to the professional judgment of the practitioner in rendering service to the client.
5. A practitioner who is an employee-engineer, and is contracting in the practitioner's own name to perform professional engineering work for other than the practitioner's employer, must provide the practitioner's client with a written statement of the nature of the practitioner's status as an employee and the attendant limitations on the practitioner's services to the client, must satisfy the practitioner that the work will not conflict with the practitioner's duty to the practitioner's employer, and must inform the practitioner's employer of the work.
6. A practitioner must cooperate in working with other professionals engaged on a project.
7. A practitioner shall,
 - i. act towards other practitioners with courtesy and good faith,
 - ii. not accept an engagement to review the work of another practitioner for the same employer except with the knowledge of the other practitioner or except where the connection of the other practitioner with the work has been terminated,
 - iii. not maliciously injure the reputation or business of another practitioner,
 - iv. not attempt to gain an advantage over other practitioners by paying or accepting a commission in securing professional engineering work, and
 - v. give proper credit for engineering work, uphold the principle of adequate compensation for engineering work, provide opportunity for professional development and advancement of the practitioner's associates and subordinates, and extend the effectiveness of the profession through the interchange of engineering information and experience.
8. A practitioner shall maintain the honour and integrity of the practitioner's profession and, without fear or favour, expose before the proper tribunals unprofessional, dishonest or unethical conduct by any other practitioner. R.R.O. 1990, Reg. 941, s. 77; O. Reg. 48/92, s. 1.

