

COUNCIL EXPLORES LICENSED SPECIALTIES

454th AND 455th MEETINGS, FEBRUARY 26, 27, AND APRIL 16, 17, 2009

By Jennifer Coombes

COUNCIL HAS ASKED the Professional Standards Committee to review a proposed protocol for developing licensed specialties, assess and prioritize 16 identified licensed specialties, and present a work schedule for each of the specialties for council to consider at its June meeting.

The direction came as a result of council's consideration of a briefing note at its February meeting, outlining a protocol for creating licensed specialties and a list of 16 possible new licensed specialties (no designations at this time) that correspond to the need for specialized engineering knowledge or experience required in external legislation.

The proposed seven-step Licensed Specialties Development Protocol would comprise:

- (a) the CEO/registrar reviewing external legislation and applying council-approved criteria to recommend which licensed specialties should be created;
- (b) the Professional Standards Committee drafting the necessary regulatory qualifications and requirements and continuing professional development requirements for each specialty for council's approval;
- (c) the CEO/registrar proposing application and annual fees for each specialty;
- (d) council approving the creation of each licensed specialty and the associated fees;
- (e) the CEO/registrar drafting regulations to authorize the proposed requirements to obtain the specializations and the requirements to maintain the specializations, as per council's approved regulation-making process;
- (f) the CEO/registrar developing an implementation and communication plan; and
- (g) the CEO/registrar implementing the licensed specialties.

The 16 possible licensed specialties the Professional Standards Committee will assess and prioritize are: demolition engineering specialist, electrical power engineering specialist, land drainage engineering specialist, environmental engineering specialist, geotechnical engineering specialist, fire protection engineering specialist, dam design engineering specialist, forensic engineering specialist, mining engineering specialist, temporary works engineering specialist, safety engineering specialist, structural engineering specialist, sanitary engineering specialist, water resources engineering specialist, flammable fuels engineering specialist and elevating devices engineering specialist.

In discussing the protocol and list of possible specialties, Councillor Rick Hilton, P.Eng., questioned whether PEO needs 16 specialties and suggested that commonalities among the listed specialties might be found.

Council began its consideration of licensed specialties in March 2008, when it received the Licence Discipline and Specialist Designation Study and directed the CEO/registrar to develop criteria to establish specialist designations and official marks linked to demand-side legislation (see *Engineering Dimensions*, May/June 2008, p. 61).

In September, council then approved two basic criteria for creating specialist designations: where creating a licensed specialist category would serve or protect the public interest, and where it would provide greater clarity of the professional engineering services offered to the public.

In presenting the item to council at that time, Councillor Chris Roney, P.Eng., BDS, said: "We've suffered in the past by not identifying individual practitioners and disciplines, and government responded by setting up its own system. We need specialties to assure the public that engineers are doing the right jobs."

Consequently, council directed the CEO/registrar to apply the criteria in a review of demand-side legislation and past council motions, to provide council with recommendations for licensed specialists and designations. It was the results of this review that council considered in February.

ENFORCEABLE CODE OF ETHICS

Council is asking the Professional Practice Examinations Subcommittee, the Complaints Committee, the Discipline Committee and Gordon Andrews, PhD, author of *Canadian Professional Engineering Practice and Ethics*, to consider the need for (e.g. a clear problem that prevents PEO from fulfilling its mandate) and a possible process for considering updates to the Code of Ethics and definition of professional misconduct, and to report back to council at its June meeting.

Council's request for the review and recommendations is the result of its consideration of a briefing note recommending that previously approved changes to the Code of Ethics and definition of professional misconduct move forward, on the basis of broad support from the affected committees and the membership.

Currently, section 72(2) of Regulation 941 excludes "an action that is solely a breach of the Code of Ethics" from the definition of professional misconduct, meaning no disciplinary action can arise from a breach solely of the Code of Ethics. The proposed changes to the Code of Ethics and definition of professional misconduct are intended to address the code's enforceability, eliminate redun-

dancy between the code and the definition, and eliminate the vague and subjective elements of the current code.

Council originally approved the changes to sections 77 (the Code of Ethics) and 72 (the definition of professional misconduct) of Regulation 941/90 in March 2008 (see *Engineering Dimensions*, May/June 2008, p. 61). But in June 2008, it directed that a consultation on and legal review of the approved changes take place. The results of the consultation and review were duly reported to council in November 2008.

The further review of the proposals council requested at its February 2009 meeting are the result of some councillors continuing to remain uncomfortable with the proposed changes.

NEW OSPE-PEO WORKING RELATIONSHIP

A new accord was approved at the February meeting between PEO and the Ontario Society of Professional Engineers (OSPE). Under the new agreement, effective March 1, PEO pledges commitment to the long-term success of OSPE and OSPE pledges commitment to the preservation of self-regulation of the profession by PEO.

The guiding principles of the new accord are:

1. We work together in the interest of the profession consistent with our respective mandates;
2. PEO supports OSPE in pursuit of the engineers' interests and member services;
3. OSPE supports PEO in pursuit of the public interest;
4. We encourage the development of partnerships when appropriate;
5. We support open and regular communication at all levels;
6. We differentiate the organizations to stakeholders of the profession; and
7. We undertake regular business through operational contracts as with any other client/vendor relationship.

The following joint approach will be taken for achieving the principles and supporting each organization's efforts:

1. We will review and recommend changes to PEO/OSPE agreements to ensure that they remain consistent with the guiding principles;
2. We will keep each other informed and provide open communication via multiple pathways (e.g. maintain a "top three issues" list by each organization, Joint Relations Committee (JRC), staff-to-staff and chapter communications, OSPE attendance at Regional Councillors Committee meetings, etc.);
3. We will seek opportunities to share/combine resources when appropriate;
4. We will maximize the impact of our outreach activities by coordinating and avoiding conflict (i.e. public events, policy statements, Queen's Park days, Policy Action Network and Government Liaison Program, etc.);
5. We will differentiate our activities to ensure there is no unintentional overlap; and
6. We will resolve all disputes through the senior volunteers of both organizations appointed to the JRC.

All future agreements between OSPE and PEO will be operational and/or business agreements as vendor and client.

The former OSPE-PEO agreement signed in November 2000 was terminated; however, the assignment agreement dated February 17, 2005, assigning PEO's duties and consideration for the administration of the Ontario portion of Engineers Canada's Manulife Financial program from PEO to OSPE, remains in place.

The CEO/Registrar was also directed to advise OSPE that all obligations have been completed under the July 26, 2001 agreement to transfer non-regulatory activities from PEO to OSPE and that no further action will be taken.

NATIONAL LICENSING MODEL

A planned plenary session on the proposed National Framework for Membership and Licensure was struck from the agenda, on a motion by then Vice President Diane Freeman, P.Eng., who was supported by councillors who also expressed concern that the proposal had not been subjected to adequate peer review, given its potential for fundamental changes to the current licensing model under which PEO operates. Following the motion to strike the item, council went in camera to further discuss the matter.

In regular session the following day, council brought forward for the record the motion it had approved in camera, directing then President Dave Adams, P.Eng., and CEO/Registrar Kim Allen, P.Eng., to stop all work on the National Framework for Membership and Licensure until such time as council directs further activity.

Council also appointed a task force comprising then President-elect Catherine Karakatsanis, P.Eng., Freeman and then councillors Roydon Fraser, PhD, P.Eng., Peter DeVita, P.Eng., and Corneliu Chisu, P.Eng., to review and make recommendations on the items raised by councillors at the April 16 in camera meeting and report back to council at the June meeting.

SEAMLESS TRANSITION FINAL REPORT

Created in 2004, the Seamless Transition Task Force was designed to improve the Student Membership (SMP) and Engineering Intern Training (EIT) programs to encourage more Canadian engineering graduates to become licensed. Specifically, the seamless transition project involved supporting future engineers through the stages from engineering student, through internship, to licensed professional engineer (see *Engineering Dimensions*, July/August 2007, p. 32).

At its April meeting, council received the final report of the task force and stood it down, with thanks. Council also directed the CEO/Registrar to consider the recommendations contained in the

report in developing the Restructured Internship and EIT programs and other related initiatives.

Specifically, the task force recommended that PEO:

1. include the SMP on PEO's main website;
2. increase PEO's presence on university campuses;
3. raise the consciousness of professors and increase the number of them applying for and obtaining their P.Eng.;
4. educate university placement centres on what constitutes acceptable engineering experience;
5. develop an EIT checklist and distribute to stakeholders;
6. provide timely feedback and credit for pregraduation experience;
7. develop an SMP fee structure that reflects the cost of each program or is tied to a formula related to the P.Eng. fee;
8. initiate the use of log books for students and EITs;
9. hold seminars to educate students and EITs on licensing requirements;
10. establish competencies, including threshold limits for assessment, and develop activities to meet these;
11. develop supervisory agreements and guidelines;
12. develop an online experience review system;
13. link chapters with students, interns and EITs;
14. amend regulations to allow for student and EIT membership; and
15. develop an annual program review for effectiveness/metrics.

PROACTIVE ENFORCEMENT

Council received a report on the Proactive Enforcement Project, launched in March 2007 to promote a more proactive approach to PEO's enforcement activities (see *Engineering Dimensions*, January/February 2007, p. 33; January/February 2008, p. 51). The project aimed to increase enforcement activities and encourage the reporting of violations of the act.

Originally a one-year pilot, the Proactive Enforcement Project was extended

by council in March 2008 (see *Engineering Dimensions*, May/June 2008, p. 62) to enable continued quantification of the project's success in generating allegations of illegal engineering practice and title use. For assessment purposes, the project wrapped up on October 31, 2008.

Council approved five of the report's six recommendations. The CEO/registrar will now examine each recommendation and, in consultation with the Enforcement Committee, recommend implementation mechanisms, including cost and schedules, for council approval in September 2009.

The approved recommendations are:

1. As PEO's enforcement efforts are largely driven by reports from members and other stakeholders, the enhanced communications effort associated with the Proactive Enforcement Project should be continued to maintain increased levels of awareness and reporting;
2. Production and distribution of *Licence Please!* should be continued, with updates to the content made every few years, as required. As a minimum, a copy of *Licence Please!* should be provided with the issuance of each new licence and Certificate of Authorization;
3. PEO should establish a formal liaison with provincial government ministries and agencies that employ professional engineers and/or have responsibility for engineering-related activities to facilitate delivery of the enforcement message to those audiences;
4. PEO should establish a formal liaison with Ontario-based universities and colleges that offer engineering degrees or engineering-related programs with the goal of including in their curricula a PEO presentation regarding licensing and title-protection issues under the *Professional Engineers Act*; and
5. Given the diverse views surrounding the applicability, necessity and/or abuse of the exceptions to licensure under section 12(3) of the *Professional Engineers Act*, PEO should produce an "interpretation guide" for employers and other stakeholders regarding the industrial and supervisory exceptions under the act.

OBC POSITION STATEMENT

Since the Ontario Building Code court challenge ruling in May 2007, there has been some confusion over how the decision should be applied in practice.

The areas requiring greater clarity have been communicated to PEO via questions from members, a meeting between Councillor Len King, P.Eng., and building officials, and a meeting of PEO staff with the Ministry of Municipal Affairs and Housing, where ministry officials relayed issues that have been presented to them by building officials and the Ontario Association of Architects (OAA).

Accordingly, council approved in April for consultation a position statement developed to clarify professional engineering related to the building code and provide a consistent message on the issue. The consultation will focus on whether the statement clearly articulates PEO's positions that a Building Code Identification Number (BCIN) is not required by a holder of a licence from PEO, a seal is required for all submissions by PEO licence holders to building officials for the purpose of obtaining building permits, and that notwithstanding that the *Professional Engineers Act* provides some exceptions from the requirements to be licensed and/or hold a certificate to practise professional engineering, PEO licence and certificate holders are not exempt from their obligations under the act and Regulation 941 when doing this work.

Stakeholders, including the Ontario Building Officials Association, the Large Municipalities Chief Building Officials, the OAA, the Joint PEO-OAA Committee, the ministry of housing, PEO's Professional Standards Committee and building design specialists, will be consulted. A final position statement intended for broad distribution will be presented to council for approval at the September 2009 meeting. Σ