

Professional standards are on their way

BY BERNARD ENNIS, P.ENG.

Like all bodies that regulate professions, PEO's major task is to issue licences allowing qualified people to carry out activities that are prohibited to all others. PEO is also required to govern the behaviour of its licence holders, by setting and enforcing standards of practice. To facilitate its legislated mandate, PEO is constituted as a self-regulating body. Like government ministries, the association has powers set out in its Act (the *Professional Engineers Act*) to establish these standards of practice as legally binding regulations. However, in the 23 years since the current Act came into force, PEO has not created a single professional standard.

PEO often responds to criticism that its members are insufficiently regulated by pointing out that it has a complaints and discipline process to deal with incompetent, negligent or otherwise unprofessional practitioners and a Code of Ethics that engineers must follow. However, the Code of Ethics is vague, unenforceable alone, and, as experience has demonstrated, difficult to apply to many cases that are

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complex and personally sensitive. The definition of professional misconduct, the enforceable portion of the PEO regulation dealing with practitioner conduct (s. 72 of Regulation 941/90), tells practitioners only what not to do.

It's clear the public is not satisfied with a reactive system to deal with situations that have already caused problems. They want PEO to be proactive in ensuring problems do not arise in the first place. They expect PEO to follow through on its obligation as a self-regu-

lator to impose on its licence holders standards of mandatory conduct that would establish firm rules describing what must be done by practitioners, rather than simply governing its licence holders. They also expect PEO to recognize that people who employ or rely on professional engineers have expectations about the quality of service they will receive. To justify the public's trust in the profession, PEO must do its part to see the public's expectations are fulfilled.

It is generally agreed among practitioners that regulations simply put down in writing are the minimally acceptable standards for the profession. Legislating these standards avoids possibly contentious debate on what clients and employers can reasonably expect from practitioners.

Public expects professionalism

As a practice advisor, I've learned the public isn't concerned about engineering incompetence or negligence. They aren't afraid that engineers are failing to pro-

tect public health and safety. But they do care about, and are not always pleased with, the outcomes and quality of professional services. Clients expect certain behaviour when they contract with a practitioner to provide professional services.

For example, a client recently wanted to know whether it's proper for an engineer to take on a project, vanish for several months, then reappear with a completed set of drawings without once contacting the client to discuss the progress of the work. In this case, the engineer was unavailable during business hours and did not respond to phone calls; the client had no idea if the engineer was working on the project or if another engineer should be hired.

This is not an unusual occurrence if the practitioner is moonlighting. Other professions ensure that practitioners recognize the importance of proper client communication by creating standards covering this and other practice management issues. For instance, the Law Society of Upper Canada includes a requirement in its professional conduct by-laws for lawyers to "communicat(e) at all stages of a matter in a timely and effective manner that is appropriate to the age and abilities of the client." In other words, a lawyer is expected to respond to client enquiries quickly and to keep clients advised of any developments. Failure to do so is a disciplinable offence.

Clients expect the same level of professionalism from professional engineers as they do from other professionals they employ. For many years, PEO's Professional Standards Committee (PSC, formerly the Professional Practice Committee) has considered, debated and provided advice on questions of ethical and professional conduct. This information is published in PEO guidelines that are simply recommendations that practitioners are not compelled to follow.

Standards set benchmarks

At its January 2007 meeting, Council approved a policy instructing the PSC to create regulations prescribing standards of practice and standards of performance that provide explicit instructions to practitioners and the public about mandatory professional responsibilities. The policy

is in return for the privilege granted to the licence holder of carrying on professional engineering activities. Standards set mandatory obligations and responsibilities for practitioners taking on particular types of assignments. Standards stipulate the particulars of the relationships between practitioners and clients, employers and other parties, by defining which services are to be provided, and the expected quality of those services. When negotiating contracts with clients and employers, practitioners can point to these standards as legal justification for the minimum amount of work that must be done. It's hoped this will mitigate the tendency for clients to see professional engineers as merely "seals for hire."

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as competitive pressures and commodification of services.

First standard developed

The PSC has already developed a practice standard for preparation of demolition plans and general review of demolition, which was developed in response to suggestions from both the Ministry of Municipal Affairs and Housing and the Ministry of Labour that PEO take the initiative in dealing with issues arising from Toronto's Uptown Theatre collapse in 2003. Following Council approval in the fall, these draft regulations will be sent to the Ministry of the Attorney General for review and approval by Cabinet. By early 2008, Regulation 941/90 will be revised to include the standard. While this standard was developed in response to an identified gap in legislation, it does not mean that had the standard been there, the tragedy would have been avoided.

PEO staff review current legislation, discipline decisions, and public and practitioner enquiries, to find the kinds of professional engineering activities that might warrant standards. Being considered currently are potential standards defining criteria for completeness of drawings, plans and specifications, and standards for report writing. It's thought these would be particularly useful, since PEO receives many calls about problems arising from the inadequate quality of drawings and reports, due not to incompetence, but rather to a lack of understanding of what separates a technical paper from a professional one. For example, a report paid for by a client can be completely worthless if the report is undated, or does not identify the project correctly. If this is the case, the quality of the engineering work is immaterial to the client's assessment of the practitioner's professional service, and poor service reflects badly on the profession as a whole. Standards will identify, based on input from the public and experienced practitioners, the factors, such as the necessary components of a good report, that differentiate acceptable and unacceptable professional service. ❖

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recognizes that a standard is a benchmark, comprising a set of definable criteria against which things, people or activities are measured and categorized. They are the basis for making judgments about a thing based on some sort of measurement. When applied to activities, standards establish criteria for judging whether an activity has achieved its objectives.

The policy sets definitions for the two types of standards mentioned in the Act: performance standards and practice standards. Performance standards are statements describing the expected outcome of a task. Practice standards specify a list of subtasks considered necessary to complete a task successfully. A practitioner is expected to perform, or at least consider, each subtask on the list while executing the assignment.

Both of these standards define what the association believes a licence holder owes to a client, employer and the pub-

lic in return for the privilege granted to the licence holder of carrying on professional engineering activities. Standards set mandatory obligations and responsibilities for practitioners taking on particular types of assignments. Standards stipulate the particulars of the relationships between practitioners and clients, employers and other parties, by defining which services are to be provided, and the expected quality of those services. When negotiating contracts with clients and employers, practitioners can point to these standards as legal justification for the minimum amount of work that must be done. It's hoped this will mitigate the tendency for clients to see professional engineers as merely "seals for hire."

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procedural manuals; their purpose is not to provide step-by-step instructions for performing technical tasks. Best practices and technical standards used by practitioners will still be defined by technical associations, universities, research organizations and practitioners themselves. PEO's intention is that standards will provide goals for practitioners to aim at, but leave judgment of how to attain those goals in their hands. Standards are intended only to ensure that practitioners are clearly informed of the obligations and responsibilities associated with specific tasks.

Council agreed that professional standards will be implemented only when there is a demonstrable public interest need, or when their use is required to protect the integrity of the profession. Integrity and value of the profession become an issue when the professional conduct of practitioners is being undermined by such internal or external forces