



Alabama State Board of Licensure for
Professional Engineers and Land Surveyors

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April 13, 2012

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Mr. David A. Conner, Ph.D., P.E.
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Rule Number: 34-11-1 (3), 34-11-1 (6)
34-11-1 (7), 34-11-2 (b)
330-X-2-.01(1)

General Question: Does the factual
situation described fall within the
definition of "Practice of Engineering"

Dear Dr. Conner:

This declaratory ruling of the Alabama Board of Licensure for Professional Engineers and Land Surveyors is issued in response to your request.

QUESTION

Are engineering faculty, that are not licensed as Professional Engineers in Alabama, and do not work under the direct supervision of a licensed Alabama Professional Engineer, in violation of the above referenced sections, when they engage in research activities at Alabama universities?

FACTS, LAW, AND ANALYSIS

Section 34-11-1(3), Code of Alabama, 1975 defines a professional engineer as a person who, by reason of his or her special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience, is qualified to practice engineering as hereinafter defined and has been licensed by the board as a professional engineer.

Section 34-11-1(7), Code of Alabama, 1975 defines the Practice of Engineering as any professional service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning, design and design coordination of engineering works and systems, planning the use of land and water, performing engineering surveys and studies, and the review of construction or other design products for the purpose of monitoring compliance with drawings and specifications; any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products; equipment of a control, communications, computer, mechanical, electrical, hydraulic, pneumatic, or thermal nature, insofar as they involve safeguarding life, health, or property; and including other professional services necessary to the planning, progress and completion of any engineering service.

Section 34-11-2(b) Code of Alabama, 1975 identifies that use of certain titles are protected. In part the section cites that "it shall be unlawful for any person to practice or offer to practice engineering in this state, as defined by this chapter, or to use in connection with his or her name or otherwise assume, use, or advertise any title or description including, but not limited to, the terms engineer, engineers, engineering, professional engineer, professional engineers, professional engineering, or any modification or derivative thereof, tending to convey the impression that he or she is a professional engineer unless the person has been duly licensed or is exempt from licensure under this chapter."

Section 330-X-2-.01(3) of the Board's *Administrative Code* indicates that "direct control" and "personal supervision" is construed by the Board to mean that the licensed professional engineer or land surveyor providing such supervision was in responsible charge of the engineering or land surveying work, shall have made decisions on technical matters of policy and design and shall have exercised his or her professional judgment in all engineering matters that are embodied in the work.

Section 330-X-6-.01(o) of the Board's *Administrative Code* regarding experience offered as qualifying experience under Section 34-11-4(1),(2), and (3), indicates that experience gained in engineering research and design projects by members of an engineering faculty where the program is approved by the board is creditable.

In 2006, the Board issued a letter addressed to Dr. Larry Benefield of the College of Engineering at Auburn University, Alabama in regards to an inquiry from the Alabama Department of Transportation concerning universities providing engineering design services. In its letter dated August 28, 2006, the Board indicated that anytime the university provides engineering services outside of the university, those services must be performed by or under the direct supervision of an Alabama licensed professional engineer.

CONCLUSION

The Code of Alabama 1975 and the *Administrative Code* of the Board do not specifically mention "research", as the practice of engineering. The Board's administrative code does indicate that certain research activities may qualify as engineering experience that can be used to meet the requirements for licensure as a professional engineer in Alabama.

Therefore, it is the opinion of the Board that the performance of the activities described in Section 34-11-1(7) must be performed by or under the direct supervision of an Alabama licensed professional engineer. If engineering faculty members perform any of the activities described under Section 34-11-1(7) they must be licensed as a professional engineer, or perform the activity under the direct supervision of an Alabama licensed professional engineer.

It is also the opinion of the Board that the term "engineer" (or any modification or derivative thereof) is a protected title. Use of the term "engineer" within research proposals by faculty members that are not licensed as described in your factual situation could be considered a violation of Alabama Code Section 34-11-2(b). The Board further determined that a faculty member described as a "member of the Electrical Engineering Department" of a university or as an "engineering faculty member" is permissible under the statute.


W. Gerald Wilbanks, P.E.
Chair