



August 30, 2021

Mr. Rob Ammons
Ammons Law Firm
3700 Montrose Blvd
Houston, TX 77006

Re: Formal Response to Request for Policy Advisory Opinion Regarding Professional Engineers Not Licensed in Texas Providing Expert Reports for Texas Court Cases; (Policy Advisory Request No. 58)

Dear Mr. Ammons:

The Texas Board of Professional Engineers and Land Surveyors (Board) met in public session on August 26, 2021, and approved this response to your request, dated June 14, 2021.

Request:

You seek guidance on if out-of-state professional engineers not licensed in Texas need to add the disclaimer "(Not Licensed in Texas)" when identifying themselves for the purpose of serving as an expert witness or providing expert reports for Texas court cases.

Response:

Firstly, Section 1001.004(e)(2) of the Texas Engineering Practice Act states that the Act does not "prohibit or otherwise restrict a person from giving testimony or preparing an exhibit or document for the sole purpose of being placed in evidence before an administrative or judicial tribunal, subject to the board's disciplinary powers under Subchapter J (of the Act) regarding negligence, incompetency, or misconduct in the practice of engineering." As such, an individual does not have to be licensed in the State of Texas to provide expert testimony or reports on engineering concepts if the reports are only being used in an administrative or judicial court.

Secondly, the issue of who can identify themselves as a professional engineer or P.E. in the State of Texas has previously been addressed in Policy Advisory Opinion No. 10 (see <https://pels.texas.gov/policy.htm>). As discussed in Policy Advisory Opinion No. 10, professional engineers licensed in another jurisdiction, but not licensed in Texas, may identify themselves as a P.E., but must include a disclaimer after their name clearly stating that her or she is not licensed in Texas. For example, an engineer identifying himself in correspondence in Texas as John W. Doe., P.E., Oklahoma (Not Licensed in Texas) would not violate the Act or Board rules.

Taken together, while individuals do not have to be professional engineers licensed in Texas to provide expert reports solely for a court case in Texas, if they are licensed professional engineers in another jurisdiction and not licensed in Texas and decide to indicate themselves as professional engineers, or P.E., within said reports, they must include a disclaimer indicating in which jurisdiction they are licensed and clearly stating they are not licensed in Texas. Failure to do so is a violation of the Act and could result in disciplinary action.

Mr. Rob Ammons
Page 2 of 2 Policy Advisory Request No. 58
August 30, 2021

Conclusion:

No new Policy Advisory Opinion will be developed for this request as the question is addressed by the Act and an existing Policy Advisory Opinion.

If you have any further questions, please contact Mr. Michael Sims, P.E., Director of Compliance & Enforcement at 512.440.7723.

Sincerely,

A handwritten signature in black ink, appearing to read "Lance Kinney". The signature is fluid and cursive, with the first name "Lance" and the last name "Kinney" clearly distinguishable.

Lance Kinney, Ph.D., P.E.
Executive Director

LK:MZS:asm