



# Just the FAQs on Ethics

**RLI**<sup>®</sup>  
DIFFERENT WORKS

RLI Design Professionals  
DPLE 149  
November 20, 2019

*RLI Design Professionals is a Registered Provider with The American Institute of Architects Continuing Education Systems. Credit earned on completion of this program will be reported to CES Records for AIA members. Certificates of Completion for non-AIA members are available on request.*

This program is registered with the AIA/CES for continuing professional education. As such, it does not include content that may be deemed or construed to be an approval or endorsement by the AIA of any material of construction or any method or manner of handling, using, distributing, or dealing in any material or product. Questions related to specific materials, methods, and services will be addressed at the conclusion of this presentation.



# Copyright Materials

This presentation is protected by US and International Copyright laws. Reproduction, distribution, display and use of the presentation without written permission of the speakers is prohibited.

© RLI Design Professionals

**RLI**<sup>®</sup>

**DIFFERENT WORKS**

# Course Description

## Why Do Ethical People Make Unethical Choices?

Many design professional approach their day-to-day activities acting ethically, but thinking little about it as they do so. This course will explore what professional ethics are, where they are defined, when they are tested, and what happens when ethical matters are mismanaged.

# Learning Objectives

## Participants will learn:

- 1 Review where to find applicable codes of ethics for design professionals and how those codes are designed to protect the public health, safety, and welfare;
- 2 Consider various definitions of ethics for design professionals, understanding that design professionals can never ignore the duty to protect the public health, safety, and welfare;
- 3 Analyze when and why ethics are tested and how to address this to protect owners and the public at large; and
- 4 Evaluate potential consequences of violating those codes of conduct.

# Definition

## Ethics

A set of moral principles. The discipline dealing with what is good and bad and with moral duty and obligation.

Moral obligations

Legal obligations

Etiquette

# Where Ethics Are Defined

There are many places where ethics for design professionals are defined. Know where and how these codes of ethics and conduct are defined.

Some examples include . . .



National Council of  
Architectural  
Registration Boards



American Institute  
of Architects



National Society of  
Professional Surveyors



American Institute of  
Certified Planners



American Society of  
Landscape Architects

# Common Points

Some common themes include . . .



Address conditions that threaten the health, safety, or welfare of the public.

Seek to meet and maintain the standards of excellence in the profession.

Follow the law and be honest.

Treat clients and others fairly.

Avoid conflicts of interest and maintain confidences, where appropriate.

Sign and seal only those documents over which you've had responsible control.

Seek knowledgeable advisors to help you.

Respect the environment.



# Duty to the Public

(National Council of Architectural Registration Boards)

## Rule 1.1

In practicing architecture, an architect's primary duty is to protect the public's health, safety, and welfare. In discharging this duty, an architect shall act with reasonable care and competence and shall apply the knowledge and skill ordinarily applied by architects in good standing, practicing in the same locality.

# Duty to the Public

(National Council of Architectural Registration Boards)

## Rule 3.5

If, in the course of an architect's work on a project, the architect becomes aware of a decision made by the architect's employer or client, against the architect's advice, which violates applicable federal, state, or local building laws and regulations and which will, in the architect's judgement, materially and adversely affect the health and safety of the public, the architect shall:

- (a) refuse to consent to the decision, and
- (b) Report the decision to the official charged with enforcement of building laws and regulations, and
- (c) In circumstances where the architect reasonably believes that other such decisions will be taken notwithstanding the architect's objection, terminate the provision of services with reference to the project unless the architect is able to cause the matter to be resolved by other means.

# Duty to the Public

(National Society of Professional Engineers)

## I. Fundamental Canons

Engineers, in the fulfillment of their professional duties, shall:

1. Hold paramount the safety, health, and welfare of the public.
2. Perform services only in areas of their competence.
3. Issue public statements only in an objective and truthful manner.
4. Act for each employer or client as faithful agents or trustees.
5. Avoid deceptive acts.
6. Conduct themselves honorably, responsibly, ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession.

# Duty to the Public

(National Society of Professional Engineers)

## II. Rules of Practice

1. Engineers shall hold paramount the safety, health, and welfare of the public.

- a. If engineers' judgment is overruled under circumstances that endanger life or property, they shall notify their employer or client and such other authority as may be appropriate.
- b. Engineers shall approve only those engineering documents that are in conformity with applicable standards.
- c. Engineers shall not reveal facts, data, or information without the prior consent of the client or employer except as authorized or required by law or this code.

...

# Duty to the Public

(National Society of Professional Engineers)

## II. Rules of Practice

1. Engineers shall hold paramount the safety, health, and welfare of the public.

...

- d. Engineers shall not permit the use of their name or associate in business ventures with any person or firm that they believe is engaged in fraudulent or dishonest enterprise.
- e. Engineers shall not aid or abet the unlawful practice of engineering by a person or firm.
- f. Engineers having knowledge of any alleged violation of this Code shall report thereon to appropriate professional bodies and, when relevant, also to public authorities, and cooperate with the proper authorities in furnishing such information or assistance as may be required.

# Duty to the Public

(National Society of Professional Surveyors)

## Creeds and Canons, Pledge

I pledge:

- To give the utmost of performance;
- To participate in none but honest enterprise;
- To live and work according to the laws of humankind and the highest standards of professional conduct;
- To place service before profit, honor and standing of the profession before personal advantage, and **the public welfare above all other considerations**

# Duty to the Public

(National Society of Professional Surveyors)

## Creeds and Canons, Canon 1

A Professional Surveyor should refrain from conduct that is detrimental to the public.

## Business and Professions Code

§ 5510.15

Protection of the public shall be the highest priority of the California Architects Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.



## Business Occupations and Professions Code

§ 3-102

The purposes of this title are to safeguard life, health, public safety, and property and to promote the public welfare by regulating persons who practice architecture in the State.

## Occupations Code

§ 1001.004(b)

The purpose of this chapter is to:

- (1) Protect the public health, safety, and welfare;
- (2) Enable the state and the public to identify persons authorized to practice engineering in this state; and
- (3) Fix responsibility for work done or services or acts performed in the practice of engineering.

# State Law

(Texas)

## Occupations Code

§ 1001.207

The board may establish standards of conduct and ethics for engineers and land surveyors in keeping with the purposes and intent of this chapter and Chapter 1071 and to ensure strict compliance with and enforcement of this chapter and Chapter 1071.

# Case Study



## Scenario:

**Problem:** While performing a forensic engineering investigation for an insurance company, Engineer discovers that a 15-foot long beam was seriously under-designed. The house is a tract home and there are other identical designs in the subdivision.

How far does the obligation to seek corrective action go?

# Case Study

Standards may conflict, in which case it may be prudent to comply with the more stringent standards.

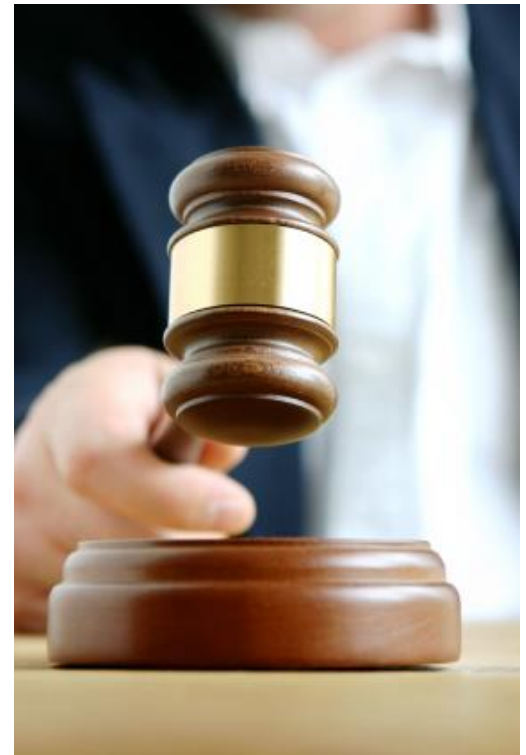
## NSPE BER Decision:

### Action taken:

- 1) **Provides written notice to the Client** – Engineer notifies the client, in writing, of the defect and his concerns.
- 2) **Seeks counsel from the State Board of Professional Engineers (State Board)** – Asks the State Board what additional actions he can take and is advised that Engineer has fulfilled his professional obligation.

**Ruling:** Engineer had an obligation to go further.

“A state engineering licensure board, while an important guidepost in determining appropriate conduct, establishes the legal minimum standards of practice under which an individual may be subject to disciplinary action for failing to fulfill the appropriate requirements.”



# Case Study



## Scenario:

**Problem:** An Engineer investigates the structural integrity of an apartment building that his Client intends to sell “as is”. The Engineer determines the building is structurally sound, however the Client confides in Engineer that the building contains deficiencies in the electrical and mechanical systems which violate applicable codes and standards. The Engineer is under a confidentiality agreement.

How do you resolve these conflicting obligations?

# Case Study

The obligation to protect the public health, safety, and welfare is paramount.

## NSPE BER Decision:

### Action taken:

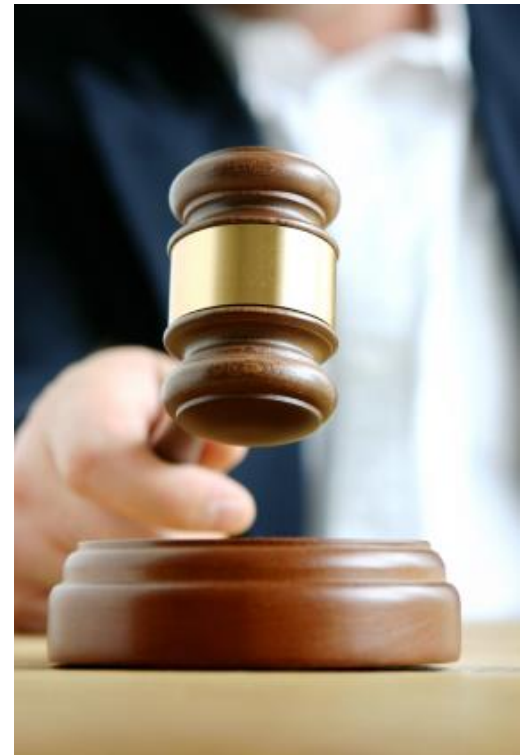
- 1) **Notes conversation in confidential report to the Client –**  
The Engineer notes his conversation with the Client regarding the deficiencies in his report but does not inform any third parties of the safety violations.

### Ruling: Engineer had an obligation to go further.

“[N]o section of the code should be read in a vacuum or independent of the other provisions of the Code.”

...

“[M]atters of public health and safety must take precedence. The Code of Ethics is clear on this point. Section I.1. employs the word ‘paramount’ to describe the obligation of the engineer with respect to the public health and safety.”



# Case Study



## Scenario:

**Problem:** An Engineer employed by a company that manufactures medical equipment is asked by a colleague to evaluate a company respirator designed for infant use. Though not an expert on respirators, the Engineer believes the design could potentially expose infants to dangerously high pressure levels. He alerts the appropriate manager. When no corrective action is taken, the Engineer informs the manager that he is compelled to report the matter to the appropriate authority.

It is ever wrong to make a disclosure?



# Case Study

Consider mitigating factors to determine whether reasonable alternatives to disclosure exist, or disclosure is warranted, who the appropriate person to make that disclosure to is.

## NSPE BER Decision:

### Action taken:

- 1) **Alerts appropriate manager**– The engineer brings the issue and proposed solution to the attention of the manager.
- 2) **Indicates a disclosure will be made** – Engineer urges manager to take prompt action and indicates he will be compelled to report the matter otherwise.

**Ruling:** Engineer should have explored other alternatives before considering disclosure to external authorities.

“While the Engineer may have had legitimate concerns, those concerns should be balanced with other legitimate factors, including the objective consideration of the concerns, the level of potential risk involved, and a review of appropriate ‘next steps’ to address the issue.”



# Case Study



## Scenario:

**Problem:** Engineer participates on social media and sometimes provides engineering information, observations, and advice to engineering colleagues and members of the public.

Is it ethical to provide engineering advice on social media?

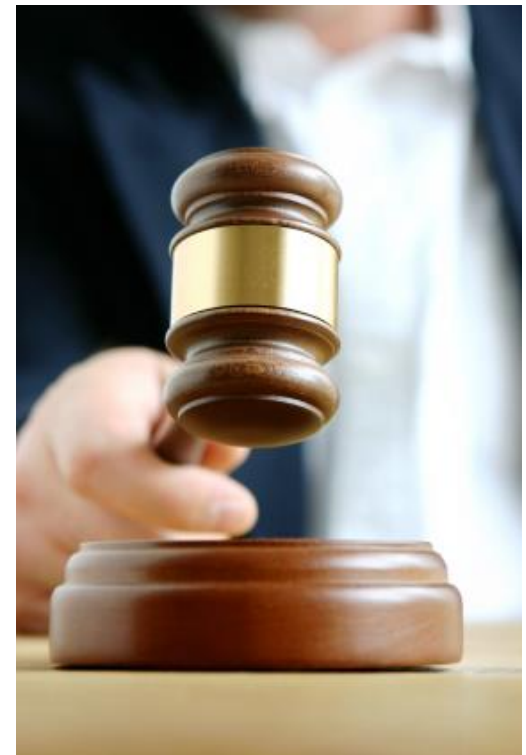
# Case Study

Engineers can further public health, safety, and welfare through their online activities, if done with care and in accordance with their ethical obligations.

## NSPE BER Decision:

**Ruling:** Posting on social media is permitted if done properly.

“Today there are a multitude of online forums, communities, social media, and other channels for professional engineers to share their engineering expertise both with engineering colleagues and with members of the public. In participating in these forums, engineers have a professional obligation to **use prudence and good judgment and to consider their participation an extension of their own professional activities** – being mindful that the sometimes apparent informality of social media does not excuse professional engineers from acting with care and discretion in offering engineering observations and opinions.”



# Potential Consequences

## Some potential consequences include . . .

Disciplinary proceedings

Termination or probation by your Employer

Loss or suspension of professional credentials

Damage to reputation

Penalties and fines

Expulsion

Civil liability for damages

Criminal charges

# Making Ethical Choices

## Thing to Consider...

- ✓ Know the applicable codes, rules, and laws of ethics.  
Ignorance of the codes, rules, and laws is not an excuse.
- ✓ Change your perspective.  
Look at the situation from the perspective of all the primary players, not just your own.
- ✓ Seek outside counsel.  
Others (ie: trusted colleagues or advisors) may offer insight or solutions that you might have missed.
- ✓ Look forward.  
Imagine having to defend your actions to your family, a boss, or an adjudicator.

# Building an Ethical Company Culture

Empower employees to reach ethical conclusions.

## Consider implementing...

- 1) **Ethics discussions** – Set aside a little time each month or quarter to discuss ethical crises, how to approach those situations, and/or lessons learned. These talks may help employees resolve issues, or prepare should a similar situation arise again.
- 2) **Designate an ethics officer** – The Engineer notes his conversation with the Client regarding the deficiencies in his report but does not inform any third parties of the safety violations.



# RLI's Professional Liability Policy

## SUPPLEMENTARY PAYMENTS Provision 2(a)(ii)

In the event a Disciplinary Proceeding is commenced against the Insured, during the Policy Period and first reported to the Insurer in writing during the Policy Period, the Insurer will reimburse the Insured for reasonable attorney's fees and expenses incurred, with the prior written approval of the Insurer, in responding to such Disciplinary Proceeding. The maximum the Insurer will pay pursuant to this provision is \$5,000 per Disciplinary Proceeding for all Insureds. The Insurer will not pay Damages, fines, taxes, or penalties pursuant to his provision.

Such payments are not subject to the Deductible and are in addition to the Limits of Liability.

Thank you for your time!

# QUESTIONS?

**This concludes The American Institute of Architects  
Continuing Education Systems Program**

**Jennifer Walton, Operations Representative**

**[Jennifer.Walton@rlicorp.com](mailto:Jennifer.Walton@rlicorp.com)**

**Mika Dewitz-Cryan, Client Solutions Manager**

**[Mika.Dewitz-Cryan@rlicorp.com](mailto:Mika.Dewitz-Cryan@rlicorp.com)**

**RLI<sup>®</sup>** DIFFERENT WORKS