

viduals with certification to perform engineering services that under State law may be performed only by a P.E. In addition, including the name or acronym of the association as part of the designation can further distinguish the association's certification program from P.E. status.

So there we have it. The state opinion about who can call themselves an engineer is trumped by a first amendment right of "commercial" free speech. Keep in mind that Mr. Webster's statement is also only an opinion. Therein squats the toad. Who is willing to be the test case through which these two divergent opinions will be adjudicated? "Not I," said the duck. "Not I," said the horse, etc. Where is the little red hen when we need her?

Enforcement

Each state sets its own enforcement process. In the beginning, enforcement was left to the Board of Engineering Registration. Initially, such boards could only revoke a license for infractions. To go after unregistered engineers the board had to turn the case over to the Attorney General. Because the AG's plate was generally full with big time cases against real scoundrels for big bucks, the engineer cases never made it to the docket.

With time, registration boards got smarter and successfully pleaded for authority to fine transgressors. More and more boards have been given the authority to impose fines and are using that technique to enforce regulations on both registered and non-registered engineers. Generally they have investigative staffs of two or three people.

The common process is for the Board to receive a complaint against a specific engineer, field an investigator to clarify the issues and, if there is just cause, notify the engineer against whom the complaint was lodged and ask for a response. The miscreant can at that point agree to conform, pay a fine or appeal the decision. If the decision is appealed, the appeal will generally be brought before a hearing officer from the AG's office. The hearing typically goes in favor of the board. Generally, at this point one has exhausted his administrative appeals, which is a good thing. The case can next enter the courts and begin to work its way up to the Supreme Court to test the first amendment right.

But wait. Neither side really wants to dig their heels in and waste a lot of energy over this issue. The key is that the Board of Registration must address each instance as a separate complaint and must receive a specific complaint to initiate the process. Prudent use of Mr. Webster's theory early on in the process will, in all probability, allow both sides to back away with dignity.

What to Do

It appears that individuals can continue to use NCE as a part of their title just as they can use BSEE or MSEE or Ph.D. In so doing they need be mindful of potential conflict with engineering registration laws and not use the NCE designation in a way that implies a substitute for registration.

As for me, being a PE registered in Washington and Virginia, I don't have a dog in this fight. My uses of my duly awarded NCE designator will not incite the registration board to riot. As much as I would like to be the little red hen, I am stuck being the duck.

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