

The Testimony Of

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The Ohio House Commerce & Labor Committee
The Honorable Gayle Manning, Chair

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Regarding

Ohio House Bill 263

Chair Manning, Vice-Chair Dean, Ranking Member Lepore-Hagan, and distinguished members of the House Commerce and Labor Committee, thank you for the opportunity to provide testimony on House Bill 263. This legislation revises the initial occupational licensing restrictions applicable to individuals convicted of criminal offenses.

My name is Joe Warino. I am an Ohio-registered professional engineer (PE), a professional surveyor (PS) and a vice president of the Ohio Society of Professional Engineers (OSPE).

OSPE is opposed to House Bill 263, as written, because the bill would remove discretion from the State Board of Registration for Professional Engineers and Surveyors regarding criminal offenses. Furthermore, other than for sexually oriented crimes and crimes of violence, the legislation makes no provision for traditional crimes of moral turpitude such as fraud, theft, bribery and perjury.

Make no mistake, to be a professional engineer, it absolutely requires that you are worthy of the public's confidence. The members of our profession interact with the public, and our work product impacts the public's health, safety and welfare daily. A sacred trust exists between engineers and the public.

In ensuring that our designs are safe, we have a great many responsibilities including sealing our plans to demonstrate that they were created with our personal professional knowledge and our direct supervisory control. When engineers stamp plans over which they had no knowledge or control -- or when they allow others to use their seal -- this is a violation known as "plan stamping."

Under House Bill 263, the Engineers and Surveyors Board could prevent plan stamping criminals from entering our profession by listing it as a criminal offense that is directly related to professional practice -- but it would only keep such criminals out of the profession for five years.

House Bill 263 would also allow our Board to prevent those who have committed fraud, theft, bribery and perjury from entering the profession or continuing to practice. (Certainly such crimes could be considered directly relevant to professional engineering practice.) But including these crimes in the laundry list of terminal offenses would be too restrictive: It would paralyze the Engineers and Surveyors Board from making exceptions for those who have made legal restitution and who have had no further convictions.

We are keen observers of the Engineers and Surveyors Board, and we have seen cause for allowing the Board to examine and consider circumstance and historical evidence in making their decisions. We've seen applicants with egregious, repetitive and recent convictions denied engineering licenses in Ohio. We've seen other applicants with a singular, many-years-old conviction granted a license because these individuals made restitution and have had no further run-ins with the law over many years. *And in each case, we could be talking about the exact same crime.*

So, how can each registration board create the ultimate laundry list of crimes that are disqualifying offenses? Shouldn't applicants who have disclosed and made restitution for a single offense many years ago be considered for another chance? Shouldn't unapologetic or repeat offenders who hide their past misdeeds be regarded with a wary eye?

Even if each registration board was able to define a list of crimes directly relevant to the practice, doesn't setting a policy of five (5) years exclusion from the profession seem arbitrary? (Honestly, it is more about the applicant's/registrant's character than about the length of time.)

Allowing discretion doesn't mean that a registration board is "out of control." The Engineers and Surveyors Board is bound to Ohio law in issuing licenses and in taking disciplinary action. Furthermore, an assistant attorney general sits in on every meeting and works closely with the Engineers and Surveyors Board. In our experience, the Engineers and Surveyors Board follows the precedents it sets for itself, preventing applicants/registrants with the same set of circumstances and evidence from being treated differently.

Finally, moral turpitude itself is not a dirty phrase. While the term has a limited definition in Ohio Revised Code 4776.10, it has a broader but defined use in federal law that includes fraud, theft, bribery and perjury among other crimes. Employing the federal use of moral turpitude, it would be difficult if not impossible for a registration board to legitimately expel qualified individuals from a profession simply because those individuals don't meet the personal ethics of a board's individual members.

OSPE is opposed to House Bill 263, as written, and we hope to work with the Ohio General Assembly to make beneficial changes to the legislation.