

## THE PATH TO COMPLIANCE

### DOES FORENSIC ENGINEERING REQUIRE LICENSURE?

Engineers are often called upon as expert witnesses in court because of their ability to understand complex technical issues; to identify good or bad design, manufacture, and construction practices; and to diagnose causes of failures. Whether or not this practice requires licensure in a specific state or jurisdiction is based upon the laws and rules of that state. Based upon the increasing number of complaints we investigate concerning this topic, there seems to be a perception by some that the practice of engineering related to legal proceedings is exempt from Oklahoma laws and rules. In some rare instances this might be the case; but, usually, and especially if an engineering report is written, Oklahoma law requires that the engineer be licensed in this state.

Oklahoma law does not require that an engineer offering an expert opinion in any legal proceeding to be licensed in Oklahoma. Courts can, and do, qualify witnesses based on their expertise and may not require licensure in this state. This Board would not presume to instruct the court on such matters. However, when the engineer offers an expert opinion which was developed from an engineering action, such as investigations or evaluations performed prior to testifying, the engineer must be licensed in Oklahoma to do that work. If engineering analysis needs to be performed for a project located in Oklahoma as a part of the expert opinion, then an engineer licensed in Oklahoma is required to be in responsible charge of that work. In other words, an engineering service performed for the preparation of the testimony would require licensure if Oklahoma law would otherwise require that service to be performed under the responsible charge of an Oklahoma licensed engineer.

Preparing a report as a part of an expert opinion for a legal proceeding must follow the same rules. If engineering analysis needs to be performed for a project in Oklahoma, then a report written in response to that analysis must be signed and sealed by an Oklahoma P.E. in accordance with Board rules. Engineers not licensed in Oklahoma must not affix their seal to such a report, use the title P.E. after their signature or otherwise identify themselves in any way



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as being an engineer since that conveys the impression that the individual is legally licensed to practice in Oklahoma. The same rules are likewise true for engineering firms. If a written report includes the practice of engineering, then the firm must be licensed as well as the individual. There can be no representation that the firm is able to practice engineering if it does not hold a Certificate of Authorization to practice in this state.

If a professional engineer does work of a nature that others besides a professional engineer may do (such as roof inspections), but performs the work as a professional engineer, that engineer (and firm) must be licensed in Oklahoma to represent the work as engineering. This representation may be in the form of signing the report with the "P.E." designation after their name or in the form of contract language or using an out-of-state PE seal on the document.

The specific act of offering an expert opinion in a legal proceeding in Oklahoma does not require an Oklahoma P.E. license; however, if the practice of engineering is required prior to offering that expert opinion, the engineer is required by law to be licensed in Oklahoma. Prior to providing expert witness testimony in any jurisdiction, it is imperative that the engineer check **with that jurisdiction** to ensure that they are in compliance with those jurisdictions regulations.

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