



NATIONAL SOCIETY OF
PROFESSIONAL ENGINEERS

BOARD *of* ETHICAL REVIEW



CASE REVIEW:

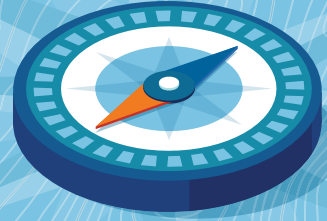
Temporary Disability

CASE NO. 20-21
APPROVED FEBRUARY 7, 2022

NSPE.ORG



BOARD of ETHICAL REVIEW



TEMPORARY DISABILITY

CASE NO. 21-04

APPROVED 2/7/22

FACTS:

Engineer C is the owner of a single-engineer consulting firm. He was recently diagnosed with a medical condition that could affect his cognitive abilities. He is concerned that it could affect his ability to provide the professional level of standards of quality or standards of care he provides to his clients. The condition is treatable and Engineer C has begun treatment and expects to return to health in a few months. Engineer C is concerned about his ethical obligations.

QUESTION:

1. Is he obligated to reveal his condition to his clients?
2. Should he refrain from accepting engineering work until he is fully recovered?

NSPE CODE OF ETHICS

REFERENCES:

- Section I.1. Engineers, in the fulfillment of their professional duties, shall hold paramount the safety, health, and welfare of the public.
- Section 1.4. Engineers, in the fulfillment of their professional duties, shall act for each employer or client as faithful agents or trustees.
- Section I.6. Engineers, in the fulfillment of their professional duties, shall conduct themselves honorably, responsibly, ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession.

NSPE BER CASE REFERENCES:

[09-9](#), [20-1](#)

DISCUSSION:

As licensed professionals, engineers have a duty to their clients and the public to perform at the standards of quality and standards of care for projects they are charged with designing. When an engineer is impaired by any condition, they might not be providing the same level of care than they normally would or they might not be giving their clients or the citizens the effort they expect to receive.

The Board of Ethical Review has considered a situation of an impaired engineer in BER Case [09-9](#). In that case, Engineer B was perceived to be impaired by alcohol during work on several occasions, a matter which Engineer C discussed with Engineer B in the past. Engineer B has responded that there is no alcohol problem and that he will correct the missed deadlines in the future. However, Engineer B continues to miss deadlines.

In BER Case [09-9](#), the board stated that:

“great lengths must be taken by all engineers to protect the professional reputation, prospects of another professional colleague, and to avoid exposing the colleague to unjust criticism and ridicule.

Having said that, it must also be acknowledged that where an engineer is perceived to be impaired, either through alcohol or substance abuse, and the engineer’s conduct is interfering with their own and the employer’s ability to effectively serve the interests of the client and the public, other engineers who observe this conduct must take appropriate steps to intercede. Performing professional services in an impaired state is a violation of state laws and

state engineering licensure board rules in some jurisdictions. For an engineer to knowingly ignore the observed impairment out of a sense of loyalty, or to protect a professional colleague, endangers the client and the public. This could result in disciplinary action against both the impaired Engineer C and the engineer who, after observing the violation, failed to take appropriate action.”

The board concluded that, Engineer C should contact an appropriate alcohol or substance abuse counseling group for professionals to assist in developing an outreach effort for Engineer B.

As recently as BER Case [20-1](#), the board considered a case involving an engineering intern that did not reveal that he had failed the PE exam twice while he was in the application process.

Said the board:

“That is, it would have been prudent for Engineer Intern A to have been forthcoming about the past exam failures, but in this case, disclosure arguably was not ethically required. XYZ Consultants offered the position to Engineer Intern A knowing he had not yet passed the PE exam. In fact, of the three requirements for professional licensing (examination, education, and experience), Engineer Intern A’s education and experience qualifications are quite acceptable. The facts do not suggest any deception on behalf of Engineer Intern A, but rather an appropriate, planned, confident path toward satisfying the job requirement, namely, PE licensure within 90 days of the date of hire. Most likely Engineer Intern A felt that passage of the PE exam on the third attempt was imminent.

However, failure to disclose does come with a down-

side. The “prudent” part of disclosure is revealed in Engineer Intern A’s very shaky position with the firm, given failure to pass the PE exam and achieve licensure, as per the job requirement. Had Engineer Intern A disclosed two previous failures to pass the exam, there was some risk XYZ Consultants would not have offered employment in the first place.”

While it would have been prudent for Engineer Intern A to be forthcoming regarding his failures, he was not ethically obligated to disclose a fact that would reflect badly on his professional competence and possibly result in him not being offered the job.

While the facts of BER Case [20-1](#) differ from the current case the conclusion that an Engineer is not automatically obligated to reveal personal information that could affect his reputation is worth considering.

Turning to the facts in the present case, Engineer C has concerns concerning the quality of his own work and his ability to recognize a degradation in his services due to symptoms from his medical condition. Engineer C, has a good reputation and long-standing loyal customers and hopes to continue to provide services in the years to come.

In this case, Engineer C, has concerns regarding his own abilities. There are no observations of lapses by others nor are there any efforts to deceive or conceal impaired services. In fact, Engineer C is confident of his continuing post-treatment competence to protect his clients. If possible, Engineer C, is encouraged to contract a trusted colleague to formally review his work for his own records. Engineer C could also hire a 3rd party reviewer to review his work for his own peace of mind.

CONCLUSIONS:

1. Engineer C is not obligated to reveal his condition to his clients.
2. Engineer C may continue accepting work while under treatment provided Engineer C retains a trusted colleague or 3rd party reviewer to review his work for his own records, as necessary.

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