

Indiana Statutes and Rules for Professional Engineers 2020-2022 Biennium

Mark Rossow, PE, PhD

Introduction

This course is designed to meet the requirement that to maintain licensure in Indiana, each biennium professional engineers must complete at least one hour of instruction in Indiana statutes and rules applicable to the practice of professional engineering.

Indiana Statutes and Rules Governing Engineering

Statutes enacted by the Indiana legislature are compiled and published as the “Indiana Code” (IC). The IC is organized by subject area into various “titles,” which are further divided into “articles.” Title 25, which is entitled “Professions and Occupations,” contains two articles of special interest to professional engineers. The first article, Article 1 General Provisions, contains statutes that apply generally to the regulation of *all* professions and occupations, not just to professional engineers.

The Chapters in Article 1 that are relevant to Professional Engineers are

- Chapter 1. Evidence of License Applicant's Payment of Personal Property Taxes Required
- Chapter 1.1. Effect of Criminal Convictions on Licensed or Registered Persons
- Chapter 1.2. Effect of Delinquency in Child Support Payments on Licensed or Registered Persons
- Chapter 2. Renewal of Licenses Granted by State Agencies. Notice of Expiration
- Chapter 3. Civil Immunity of Regulatory Agencies
- Chapter 4. Continuing Education
- Chapter 6. Professional Licensing Agency
- Chapter 7. Investigation and Prosecution of Complaints Concerning Regulated Occupations
- Chapter 8. Occupational and Professional Licensure, Registration, and Certification Fees
- Chapter 11. Professional Licensing Standards of Practice
- Chapter 12. Renewal of Licenses Held by Individuals in Military Service;
- Chapter 14. Meetings
- Chapter 16. Evaluation of Regulated Occupations

Article 1 of IC Title 25 can be found at

<http://iga.in.gov/legislative/laws/2020/ic/titles/025#25-1-6.5>

The second article of special interest to professional engineers is Article 31 Professional Engineers. It applies, as the name suggests, exclusively to P.E.s.

Article 31 of IC Title 25 contains only one Chapter: Regulation of Engineers; Creation of Board.

Article 31 of IC Title 25 can be found at

<http://iga.in.gov/legislative/laws/2020/ic/titles/025#25-31>

Administrative Rules Governing Engineering

Because the legislature has neither the time nor resources to draft statutes covering all potential situations, it delegates some of its regulatory authority to administrative agencies. These agencies may create rules that have the effect of law even though they were not approved by the legislature (The rules so created are restricted from violating any statute). The collection of rules administered by the administrative agencies is referred to as the Indiana Administrative Code (IAC). Title 864 of the IAC is the chapter concerned exclusively with the regulation of engineering practice. The governing body authorized to administer Title 864 is the Indiana State Board of Registration for Professional Engineers.

A pdf file containing Title 864 of the IAC can be downloaded from

http://www.in.gov/legislative/iac/iac_title?iact=864

Title 864 contains only one article, ARTICLE 1.1. ADMINISTRATION; GENERAL REQUIREMENTS

The Rules given in the Article are

- Rule 1. General Provisions
- Rule 2. Qualifications for Examination
- Rule 3. Applications
- Rule 4. Examinations (Repealed)
- Rule 4.1. Examinations
- Rule 5. Comity Registration
- Rule 6. Certificates
- Rule 7. Registrant's Seal
- Rule 8. Renewal
- Rule 9. Roster
- Rule 10. Temporary Permit (Repealed)
- Rule 11. Rules of Professional Conduct
- Rule 12. Fees

- Rule 13. Land Surveying; Competent Practice (Repealed)
- Rule 14. Limited Liability Company Practice
- Rule 15. Continuing Education

Course Content

Because this course is for 1 PDH, only a small subset of the statutes and rules applicable to the practice of professional engineering can be considered.

The course includes examples of recent disciplinary actions taken by the Indiana State Board of Registration for Professional Engineers.

Note: laws and rules are often changed by the legislature or the State Board. For that reason, individuals concerned about a particular statute or rule should consult the most recent version of the statute or rule available, rather than relying on this Course Document for current legal information.

Table of Contents

Part I – Indiana Code Title 25, Article 31 – Professional Engineers

IC 25-31-1-2 Definitions	Page 4
IC 25-31-1-3 State board of registration for professional engineers	Page 5
IC 25-31-1-27 Practicing without license and other specific violations	Page 6

Part II - Indiana Administrative Code Title 864, Article 1.1 - General Provisions

Rule 1. General Provisions	Page 6
Rule 11. Rules of Professional Conduct	Page 7
Rule 15. Continuing Education	Page 13

Part III - Examples of Disciplinary Actions

Case Studies	Page 18
--------------	---------

Part I – Indiana Code Title 25, Article 31 – Professional Engineers

IC 25-31-1-2 Definitions

Sec. 2. As used in this chapter:

(a) "Board" means the state board of registration for professional engineers.

(b) "Professional engineer" means an individual who, by reason of that individual's special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design which are acquired by education and practical experience, is qualified to engage in the practice of engineering as attested by that individual's registration as a professional engineer.

(c) "Engineering intern" means an individual who:

(1) is a graduate from an approved engineering curriculum of four (4) years or more or who has acquired, through engineering education and experience in engineering work, knowledge and skill approximating that obtained by graduation in an approved engineering curriculum of four (4) years or more;

(2) has successfully passed an examination as prescribed in section 14 of this chapter; and

(3) has been issued by the board an appropriate certificate of enrollment as an engineering intern.

(d) "Practice of engineering" means any service or creative work that the adequate performance of requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to services or creative work that includes the following:

(1) Consultation.

(2) Investigation.

(3) Evaluation.

(4) Planning, including planning the use of land and water.

(5) The design of or the supervision of the design of engineering works and systems.

(6) Engineering surveys and studies or the supervision of engineering surveys and studies, including all surveying activities required to support the sound conception, planning, design, construction, maintenance, and operation of engineered projects, but not including the surveying of real property for the establishment of land boundaries, subdivisions, rights-of-way, easements, and the dependent or independent surveys or resurveys of the public land survey system.

(7) Evaluation of construction for the purpose of assuring compliance with specifications, plans, and designs, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, work systems, or projects.

The term "practice of engineering" does not include the work ordinarily performed by persons who operate or maintain machinery or equipment.

(e) "Approved engineering curriculum" means an engineering curriculum of four (4) years or more that has been approved by the board. In approving the engineering curriculum, the board may take into consideration the standards of accreditation adopted by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology.

(f) "Practice or offer to practice engineering" means the act of an individual or a business who by verbal claim, sign, advertisement, letterhead, card, telephone listing, or in any other way represents the individual or the business to be a professional engineer or who performs, or offers to perform, any acts or work involving the practice of engineering.

(g) "Licensing agency" means the Indiana professional licensing agency established by [IC 25-1-5-3](#).

IC 25-31-1-3 State board of registration for professional engineers

Sec. 3. (a) The state board of registration for professional engineers is created.

(b) The board consists of seven (7) members, six (6) of whom shall be registered professional engineers.

(c) Subject to [IC 25-1-6.5-3](#), one (1) member must be appointed to represent the general public who is:

(1) a resident of this state; and

(2) not associated with professional engineering other than as a consumer.

(d) All members of the board shall be appointed by the governor.

(e) Subject to [IC 25-1-6.5-3](#), six (6) professional engineer members shall be appointed to the board.

(f) A person appointed as a professional engineer member of the board must:

(1) be a citizen of the United States;

(2) have been a resident of this state for a period of at least five (5) years immediately before the time of the member's appointment;

(3) be registered as a professional engineer and must have been engaged in the lawful practice of engineering for at least twelve (12) years; and

- (4) have been in responsible charge of engineering work or engineering teaching for at least five (5) years.

To the extent possible, the governor shall appoint members to the board who serve or have served in diverse areas of professional practice.

- (g) Every member of the board shall be appointed under [IC 25-1-6.5](#).

(h) Every member of the board shall receive a certificate of appointment from the governor, and, before beginning the member's term of office, file with the secretary of the board a written oath or affirmation for the faithful discharge of the member's official duties.

- (i) The governor may remove any member of the board under [IC 25-1-6.5-4](#).

IC 25-31-1-27 Practicing without license and other specific violations

Sec. 27. A person who:

- (1) practices or offers to practice engineering without being registered or exempted under the laws of this state;
- (2) presents as the person's own the certificate of registration or the seal of another;
- (3) gives any false or forged evidence of any kind to the board or to any member of the board in obtaining a certificate of registration;
- (4) impersonates any other registrant;
- (5) uses an expired, suspended, or revoked certificate of registration; or
- (6) otherwise violates this chapter;

commits a Class B misdemeanor.

Part II - Indiana Administrative Code Title 864, Article 1.1 - General Provisions

Rule 1. General Provisions

864 IAC 1.1-1-1 Definitions; abbreviations

Authority: IC 25-31-1-7; IC 25-31-1-8

Affected: IC 25-31-1-2; IC 25-31-1-21

Sec. 1. (a) The following definitions apply throughout this title:

- (1) "Act" means the Registration Act, IC 25-31, creating a board to regulate the practice of engineering in Indiana.
- (2) "Engineer" means professional engineer as defined in IC 25-31-1-2(b).

- (3) "Registrant" means an individual engineer to whom a certificate of registration has been granted under the Act.
- (4) "EI" means an engineering intern as defined in IC 25-31-1-2(c).
- (5) "Applicant" means any individual whose application has been received by the board for consideration to be registered as an engineer or for enrollment as an EI in the state of Indiana.
- (6) "EAC ABET" means the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology.
- (7) "Approved engineering curriculum" means an EAC ABET accredited baccalaureate, master's, or doctoral degree engineering program.
- (8) "The date of registration" means the date that licensure was approved by the board.
- (9) "Comity" means a principle by which the board licenses persons to practice engineering under IC 25-31-1-21 on the basis of engineering licenses issued by other states.
- (b) The terms defined in IC 25-31-1-2 shall have the same definitions when used in this

title.

864 IAC 1.1-1-3 Meetings of board

Authority: IC 25-31-1-5; IC 25-31-1-7; IC 25-31-1-8

Affected: IC 25-31-1-5

Sec. 3. In order to establish the regular meetings provided for in IC 25-31-1-5 and provide for special meetings of the board, the board adopts the following:

- (1) one of the regular meetings of the board shall be held as soon as practicable after the start of the calendar year, at which meeting the board shall elect a chairman and a vice-chairman from among its members. Such officers may be elected also at any other meeting when a vacancy exists;
- (2) another regular meeting shall be held as near as practicable to the middle of the calendar year;
- (3) the chairman or any three members may call a special meeting by presenting a request to the professional licensing agency;
- (4) the professional licensing agency shall give a notice to all board members of each meeting setting out the time and place of the meeting and including a proposed agenda of the major items for action at the meeting, not less than ten days prior to the meeting, unless such notice has been waived by the chairman.

Rule 11. Rules of Professional Conduct

864 IAC 1.1-11-1 Ethical, economic, and legal principles; professional incompetence

Authority: IC 25-31-1-7; IC 25-31-1-8

Affected: IC 25-31-1

Sec. 1. (a) This rule establishes requirements concerning ethical, economic, and legal principles and unprofessional conduct in the practice of engineering.

(b) The failure of a registered professional engineer to comply with the provisions of this rule constitutes professional incompetence.

864 IAC 1.1-11-2 Agreement to abide by act and rules

Authority: IC 25-31-1-7; IC 25-31-1-8

Affected: IC 25-31-1-13

Sec. 2. Each applicant shall certify on the application that the applicant has read and agrees to abide by the Act and the rules of the board in force at the time.

864 IAC 1.1-11-3 Privilege to practice; responses to board pertaining to professional conduct

Authority: IC 25-31-1-7; IC 25-31-1-8

Affected: IC 25-31-1

Sec. 3. Knowledge of the Act and rules of the board shall encompass the understanding that the practice of engineering is a privilege, as opposed to a right, and the registrant shall be forthright and candid in statements or written response to the board or its representatives on matters pertaining to professional conduct.

864 IAC 1.1-11-4 Public safety, health, and welfare

Authority: IC 25-31-1-7; IC 25-31-1-8

Affected: IC 25-31-1

Sec. 4. The engineer shall at all times recognize the primary obligation to protect the safety, health, and welfare of the public in the performance of professional duties. If the engineer's professional judgment is overruled under circumstances where the safety, health, and welfare of the public are endangered, the engineer shall inform the engineer's employer of the possible consequences and notify such other proper authority of the situation, as may be appropriate.

864 IAC 1.1-11-5 Qualification to undertake assignment

Authority: IC 25-31-1-7; IC 25-31-1-8

Affected: IC 25-31-1

Sec. 5. The engineer shall undertake to perform engineering assignments only when qualified by education and experience in the specific technical field of professional engineering involved.

864 IAC 1.1-11-6 Restricted services for assignment outside field of competence

Authority: IC 25-31-1-7; IC 25-31-1-8

Affected: IC 25-31-1

Sec. 6. The engineer may accept an assignment requiring education or experience outside of the engineer's field of competence, but only to the extent that services are restricted to those phases of the project in which the engineer is qualified. All other phases of such project shall be performed by qualified associates, consultants, or employees.

864 IAC 1.1-11-7 Use of seal restricted

Authority: IC 25-31-1-7; IC 25-31-1-8

Affected: IC 25-31-1

Sec. 7. The engineer shall not affix the engineer's signature and/or seal to any engineering plan or document dealing with subject matter in which the engineer lacks competence by virtue of insufficient education or experience, or to any such plan or document not prepared as described in 864 IAC 1.1-7-4.

864 IAC 1.1-11-9 Professional reports, statements, and testimony

Authority: IC 25-31-1-7; IC 25-31-1-8

Affected: IC 25-31-1

Sec. 9. The engineer shall be completely objective and truthful in all professional reports, statements, or testimony. The engineer shall include all relevant and pertinent information in such reports, statements, or testimony.

864 IAC 1.1-11-10 Expert opinion testimony

Authority: IC 25-31-1-7; IC 25-31-1-8

Affected: IC 25-31-1

Sec. 10. The engineer, when serving as an expert or technical witness before any court, commission, or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of the engineer's testimony.

864 IAC 1.1-11-11 Public policy statements, criticisms, or arguments

Authority: IC 25-31-1-7; IC 25-31-1-8

Affected: IC 25-31-1

Sec. 11. The engineer will issue no statement, criticisms, or arguments on engineering matters connected with public policy which are inspired or paid for by an interested party, or parties, unless the engineer has prefaced the comment by:

- (1) explicitly identifying himself or herself;
- (2) disclosing the identities of the party, or parties, on whose behalf the engineer is speaking; and
- (3) revealing the existence of any pecuniary interest the engineer may have in the instant matters.

864 IAC 1.1-11-12 Conflicts of interest

Authority: IC 25-31-1-7; IC 25-31-1-8

Affected: IC 25-31-1

Sec. 12. The engineer shall conscientiously avoid conflicts of interest with the engineer's employer or client, but, when unavoidable, the engineer shall forthwith disclose the circumstances to the engineer's employer or client.

864 IAC 1.1-11-13 Disclosure of conflict of interest

Authority: IC 25-31-1-7; IC 25-31-1-8

Affected: IC 25-31-1

Sec. 13. The engineer shall avoid all known conflicts of interest with the engineer's employer or client and shall promptly inform the engineer's employer or client of any business association, interest, or circumstances which could influence judgment or quality of services.

864 IAC 1.1-11-14 Compensation from more than one party for same project

Authority: IC 25-31-1-7; IC 25-31-1-8

Affected: IC 25-31-1

Sec. 14. The engineer shall not accept compensation, financial or otherwise, from more than one (1) party for services on the same project, unless the circumstances are fully disclosed to and agreed to by all interested parties.

864 IAC 1.1-11-15 Gratuities prohibited

Authority: IC 25-31-1-7; IC 25-31-1-8

Affected: IC 25-31-1

Sec. 15. The engineer shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with the engineer's client or employer in connection with work for which the engineer is responsible.

864 IAC 1.1-11-16 Financial or other considerations from suppliers prohibited

Authority: IC 25-31-1-7; IC 25-31-1-8

Affected: IC 25-31-1

Sec. 16. The engineer shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying their products.

864 IAC 1.1-11-17 Public service position; conflict of interest

Authority: IC 25-31-1-7; IC 25-31-1-8

Affected: IC 25-31-1

Sec. 17. When in public service as a member, advisor, or employee of a governmental body or department, the engineer shall not participate in considerations or actions with respect to services provided by the engineer or the engineer's organizations in private engineering practices.

864 IAC 1.1-11-18 Public contracts; conflict of interest

Authority: IC 25-31-1-7; IC 25-31-1-8

Affected: IC 25-31-1

Sec. 18. The engineer shall not solicit or accept an engineering contract from a governmental body on which a principal, officer, or employee of the engineer's organization serves as a member.

864 IAC 1.1-11-19 Payment of consideration to secure work prohibited; exception

Authority: IC 25-31-1-7; IC 25-31-1-8

Affected: IC 25-31-1

Sec. 19. The engineer shall not offer to pay, either directly or indirectly, any commission, political contribution, gift, or other consideration in order to secure work, exclusive of securing a salaried position through employment agencies.

864 IAC 1.1-11-20 Employment on basis of qualification and competence

Authority: IC 25-31-1-7; IC 25-31-1-8

Affected: IC 25-31-1

Sec. 20. The engineer shall seek professional employment on the basis of qualification and competence in the proper accomplishment of similar work.

864 IAC 1.1-11-21 Misrepresentation of qualifications prohibited

Authority: IC 25-31-1-7; IC 25-31-1-8

Affected: IC 25-31-1

Sec. 21. The engineer shall not falsify or permit misrepresentation of the engineer's or the engineer's associates' academic or professional qualifications. The engineer shall not misrepresent or exaggerate the degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures or their past accomplishments, or the engineer's past accomplishments with the intent and purpose of enhancing the engineer's qualifications and work.

864 IAC 1.1-11-22 Use of name in fraudulent or dishonest venture

Authority: IC 25-31-1-7; IC 25-31-1-8

Affected: IC 25-31-1

Sec. 22. The engineer shall not knowingly associate with or permit the use of the engineer's name or firm name in a business venture by any person or firm which the engineer knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature.

864 IAC 1.1-11-23 Reporting violations

Authority: IC 25-31-1-7; IC 25-31-1-8

Affected: IC 25-31-1

Sec. 23. If the engineer has knowledge or reason to believe that another person or firm may be in violation of this article, the engineer shall present such information to the board in writing and shall cooperate with the board in furnishing such further information or assistance as may be required by the board.

864 IAC 1.1-11-24 Conviction of a crime; effect

Authority: IC 25-1-1.1; IC 25-31-1-7; IC 25-31-1-8

Affected: IC 25-1-11-5; IC 25-31-1

Sec. 24. Conviction of a crime may be a basis for disciplinary action under IC 25-1-11-5 or other applicable statute.

864 IAC 1.1-11-25 Discipline of license in another jurisdiction; effect

Authority: IC 25-31-1-7; IC 25-31-1-8

Affected: IC 25-1-11-5; IC 25-31-1

Sec. 25. Discipline of a professional engineer's license by another jurisdiction may be grounds for disciplinary action under IC 25-1-11-5(a)(7).

Rule 15. Continuing Education

864 IAC 1.1-15-1 Continuing education

Authority: IC 25-1-4-8; IC 25-31-1-17.5

Affected: IC 25

Sec. 1. This rule establishes the continuing education requirements for professional engineers.

864 IAC 1.1-15-2 Definitions

Authority: IC 25-1-4-8; IC 25-31-1-17.5

Affected: IC 25-1-4-0.2; IC 25-1-4-0.5

Sec. 2. (a) As used in this rule, "biennium" means a two (2) year licensure period during which continuing education requirements must be met. It:

- (1) commences on August 1 of an even-numbered year; and
- (2) concludes on July 31 of the next even-numbered year.

(b) Based on IC 25-1-4-0.5 and as used in this rule, "continuing education" means an orderly process of instruction that is:

- (1) approved by an approved organization (as defined in IC 25-1-4-0.2) or the board; and
- (2) designed to directly enhance a professional engineer's knowledge and skill in providing services relevant to the practice of engineering.

The activities described in section 4 of this rule qualify as continuing education if they augment the professional engineer's knowledge and skill in providing services relevant to the practice of engineering.

(c) As used in this rule, "hour of continuing education" means at least fifty (50) minutes of instruction or course contact time. "Hours of continuing education" has the same meaning for the number of hours stated. An alternate term for an hour of continuing education that is used nationally with continuing education for professional engineers is professional development hour or PDH.

864 IAC 1.1-15-3 Continuing education hours required

Authority: IC 25-1-4-8; IC 25-31-1-17.5

Affected: IC 25-1-4

Sec. 3. (a) Except for holders of an inactive certificate under section 9 of this rule, during each biennium a professional engineer shall complete thirty (30) hours of continuing education that meets the requirements of this rule and IC 25-1-4 in order to renew his or her professional engineer registration. This continuing education requirement first applies to the biennium of August 1, 2010, through July 31, 2012, and therefore first applies to the July 31, 2012, renewal.

(b) At least one (1) hour of the continuing education required in each biennium under subsection (a) shall be in ethics applicable to the practice of professional engineering.

(c) At least one (1) hour of the continuing education required in each biennium under subsection (a) shall be in Indiana statutes and rules applicable to the practice of professional engineering.

(d) A professional engineer initially licensed in Indiana in the first year of a biennium shall only be required to obtain fifteen (15) hours of continuing education. A professional engineer initially licensed in Indiana in the second year of a biennium shall not be required to obtain any continuing education.

(e) Up to fifteen (15) hours of continuing education obtained during a biennium beyond what is required for that biennium may be carried over to the next biennium.

864 IAC 1.1-15-4 Credit for distance learning, teaching, college courses and other qualifying activities

Authority: IC 25-31-1-17.5

Affected: IC 25

Sec. 4. (a) Distance learning courses obtained by distance learning methods shall qualify.

(b) Courses that are relevant to the professional engineer's professional skills, which are part of the curriculum of an accredited university, college, or educational institution, shall earn:

(1) fifteen (15) hours of continuing education for each academic semester hour completed; or

(2) ten (10) hours of continuing education for each academic quarter hour completed.

(c) Teaching a course at an accredited university, college, or educational institution shall earn two (2) times the number of hours a student is allowed under subsection (b), but only for the first time the instructor teaches the course.

(d) Services as an instructor or presenter at a qualified continuing education course shall earn two (2) hours of continuing education for each hour taught, but only for the initial instruction or presentation.

(e) Active participation in educational outreach activities with kindergarten to grade 12, or higher education students pertaining to professional engineer registration or the engineering profession shall qualify for a maximum of one (1) hour of continuing education per activity, and a maximum of two (2) hours of continuing education per biennium.

(f) Active participation in a professional or technical society relating to the practice of engineering shall qualify for one (1) hour of continuing education per year of

service and, therefore, a maximum of two (2) hours of continuing education per biennium.

(g) Authoring of published papers, articles, or books relevant to the professional engineer's practice of engineering shall qualify for five (5) hours of continuing education in the biennium in which the publication occurred unless peer reviewed for an archival journal, in which case it shall qualify for ten (10) hours of continuing education in the biennium in which the publication occurred. Not more than one (1) paper, article, or book may be counted in any one (1) biennium.

(h) Attainment of a patent relevant to the professional engineer's practice of engineering shall qualify for ten (10) hours for each patent.

864 IAC 1.1-15-5 Approval of continuing education programs

Authority: IC 25-1-4; IC 25-31-1-17.5

Affected: IC 25-1-4-0.2; IC 25-1-4-0.5

Sec. 5. (a) It is the professional engineer's responsibility to ensure that the course is applicable to enhancing the practice of engineering. According to IC 25-1-4-0.5, certain courses are automatically approved by being approved by an approved organization under IC 25-1-4-0.2 assuming the subject matter of the course is acceptable under this rule by being designed to directly enhance the practitioner's knowledge and skill. For any course not automatically approved, the following criteria shall be used for board approval of continuing education programs for professional engineers:

(1) The continuing education course shall have a statement of objectives, which the program should achieve for its participants relating to and enhancing the practice of engineering.

(2) The sponsor of continuing education courses shall provide:

(A) adequate administration, including a responsible person to coordinate and administer the program; and

(B) for the maintenance of proper records.

(3) The curriculum of a continuing education course shall be thoughtfully planned and designed to explore in considerable depth one (1) subject or a closely related group of subjects related to the practice of engineering.

(4) The continuing education course shall:

(A) have qualified instructors who have demonstrated competence in the subject areas;

(B) be held in adequate facilities that allow for an effective program; and

(C) employ a variety of educational methods and teaching aids that enhance the learning opportunities.

(5) Appropriate methods of evaluation shall be devised and used to measure the continuing education course's effectiveness.

(6) The sponsor of the continuing education course shall provide to the participants a meaningful record of attendance stating the continuing education hours involved, such as a certificate of completion.

(b) Continuing education courses may be approved by the board provided the sponsoring organization has submitted the proper documentation.

(c) The sponsor of the course is responsible for monitoring attendance in such a manner that verification of attendance throughout the entire course can be reliably assured.

(d) Notwithstanding subsections (a) and (b), continuing education courses for professional engineers approved by an approved organization under IC 25-1-4-0.2 are automatically approved.

(e) Without limiting any other organization that may qualify under IC 25-1-4-0.2, the following shall be an "approved organization" under IC 25-1-4-0.2 and this rule:

(1) Professional engineering related technical or professional societies, organizations, councils, associations, or institutions.

(2) Organizations or individuals who are approved by the board as provided for in subsection (f).

(f) To qualify for approval under subsection (e)(2), an organization or individual shall:

(1) Apply to the board certifying that continuing education courses shall comply with the provisions of subsection (a)(1) through (a)(6) and, as applicable, with IC 25-1-4 and other provisions of this rule, and receive the board's approval.

(2) Submit an annual report to the board no later than February 15 that represents that the organization or individual complies with the requirements of subdivision (1).

(3) Be subject to a board audit for compliance with subsection (a)(1) through (a)(6) and, as applicable, with IC 25-1-4 and other provisions of this rule.

(g) The approval of an organization or individual under subsection (e)(2) may be rescinded if the organization or individual does not comply with subsection (a)(1) through (a)(6) and, as applicable, IC 25-1-4 and other provisions of this rule.

864 IAC 1.1-15-6 Reporting continuing education

Authority: IC 25-31-1-17.5

Affected: IC 25

Sec. 6. (a) A licensee must sign the renewal form provided by the Indiana professional licensing agency that verifies that all continuing education requirements according to section 3 of this rule will have been met by the time of license renewal.

(b) The professional engineer shall maintain copies of certificates of completion of continuing education courses for a period of three (3) years following the end of the biennium.

864 IAC 1.1-15-7 Continuing education audit

Authority: IC 25-1-4; IC 25-31-1-17.5

Affected: IC 25-1-4-3

Sec. 7. (a) As required by IC 25-1-4-3, the board shall conduct random audits for compliance with continuing education requirements.

(b) Action taken for noncompliance will be governed by IC 25-1-4.

Part III - Examples of Disciplinary Actions

The following case studies have been taken from the IN.gov License Litigation website (<http://www.in.gov/ai/appfiles/pla-litigation/>). To improve readability for non-lawyers, some legal boilerplate has been omitted, and some legally precise but wordy descriptions have been replaced by short paraphrased versions.

Case No. 1: Committing crimes that are harmful to the public (convictions for sexual misconduct)

1. Findings of Fact

a. Respondent was charged with five counts of Sexual Misconduct with a Minor, in violation of Ind. Code § 35-42-4-9(A)(1) and one count of Attempted Sexual Misconduct with a Minor in violation of Ind. Code § 35-42-4-9(A)(1), all classified as Class B Felonies.

b. The acts supporting the charges in the Information took place while the victim, a minor, identified in the Information as "T.C." was fourteen years old.

c. After a four day jury trial, Respondent was found guilty of Counts 1, 3, 4, 5 and 6: Sexual Misconduct with a Minor, Class B Felonies and Count 2: Attempted Sexual Misconduct with a Minor, a Class B Felony.

d. Respondent was sentenced to fifteen years for each count, with ten years executed, five years suspended, for each count, all to run concurrently. Respondent was ordered to serve five years of probation following his date of release from the Indiana Department of Correction.

2. Conclusions of Law

a. Respondent is subject to disciplinary sanctions pursuant to Ind. Code § 25-1-11-5(a)(2)(B), in that he has been convicted of crimes that are harmful to the public by his convictions for Sexual Misconduct with a Minor.

b. Respondent is subject to disciplinary sanctions pursuant to Ind. Code § 25-1-11-5(a)(2)(A) in that Respondent was convicted of a crime that has a direct bearing on his ability to continue to practice competently, specifically six felonies based upon acts of sexual misconduct with a minor, acts that have a direct bearing on whether Respondent should be entrusted to serve the public as a registered engineer, which is professional incompetence pursuant to 864 IAC 1.1- 11-24.

c. With findings that Respondent is subject to disciplinary sanctions under Ind. Code § 25-1-11-5, the Board may impose sanctions, singly or in combination, according to Ind. Code § 25-1-11-12.

3. Order

Respondent's profession engineer registration shall be REVOKED.

Case No. 2: Order withdrawing probation

1. Findings of Fact

a. This matter is before the Board on the Respondent's petition for withdrawal of his probation. In its Decision on License Reinstatement Application, the Board placed the Respondent's registration on indefinite probation after he acknowledged at his personal appearance before the Board that he committed an act for which he may be disciplined by practicing engineering with an expired registration. Various probationary terms and conditions were imposed.

b. The Respondent has complied with the terms and conditions of his probation, including sending a letter to clients, general contractors, architects, designers, and builders informing them that he performed engineering duties with an expired professional engineer registration, and expressing his opinion that there was quality assurance and quality control to show that the engineering work was done meeting the standard of care for engineering work. Respondent has established that the deficiency that required disciplinary action has been remedied.

2. Conclusions of Law

a. Ind. Code § 25-1-8-8(b)(5) provides upon application for license reinstatement that:

Upon agreement of the applicant and the board and following a personal appearance by the applicant before the board, [the board may] reinstate the...registration and place the applicant on probation status under [Ind. Code § 25-1-11-12(a)(5)].

b. Ind. Code §25-1-11-12(c) states in pertinent part that:

The board may withdraw... the probation under [Ind. Code §25-1-1112(a) (5)] if the board finds after a hearing that the deficiency that required disciplinary action has been remedied....

c. Because the Respondent has established that the deficiency that required disciplinary action has been remedied, he qualifies for withdrawal of his probation.

3. Order

IT IS HEREBY ORDERED that the Respondent's petition for withdrawal of his probation is GRANTED and therefore his PROBATION is WITHDRAWN.

Case No. 3: Committing crimes that are harmful to the public (convictions for fraud and theft)

1. Findings of Fact

a. A detective acting on behalf of the State of Indiana, County of Marion, filed an Affidavit for Probable Cause. The Affidavit alleged the Marion County Prosecutor's Office was contacted by XXX Engineers, Inc., regarding a former employee who was suspected of using the business' funds for personal expenditures.

b. Pursuant to the Affidavit, a sergeant with the Marion County Sheriffs Office, Grand Jury Division, met with several employees of XXX. The following facts were disclosed to the sergeant at the meeting:

A. XXX had two offices, one located in Beech Grove, Indiana and one located in Highland, Indiana;

B. Respondent was hired to open and operate the Beech Grove Office. His duties were to include: day-to-day operations, engineering work, and financial duties. Specifically, in reference to his financial duties, Respondent was to send invoices to clients and any payments received were to be forwarded to the Highland Office;

C. Respondent was never an officer or owner of XXX and was never authorized to conduct banking, endorse checks, or open bank accounts on behalf of XXX;

D. Respondent sent a letter to XXX indicating he had borrowed \$53,000 for his personal gain, but that he intended to repay the funds to XXX;

E. As a result of this information, XXX began an internal investigation. Through this investigation it was revealed Respondent had been sending invoices to clients and receiving payment without ever forwarding the payments to the Highland Office, as required.

F. XXX's internal investigation also revealed Respondent had falsified time sheets for other XXX employees in an attempt to conceal his failure to report these jobs and clients to XXX through which he had received payment;

G. Subsequently, XXX terminated Respondent;

H. Post-termination, XXX further investigated Respondent's fraudulent actions, and discovered Respondent had opened a business checking account at JP Morgan Chase. The Chase Account signature card listed Respondent as Secretary of XXX.

I. KSE had no knowledge of the Chase Account prior to terminating Respondent;

J. Based upon this information, XXX obtained financial records for the Chase Account; and

K. Pursuant to an internal financial analysis, XXX discovered Respondent had deposited more than \$1,200,000.00 into the Chase Account, without informing XXX the funds existed. Respondent then withdrew the funds via manual or online transfers, through an ATM machine, or via wire transfer and transferred the funds into his personal account.

2. Conclusions of Law

a. Count 1: Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-11-5(a)(1)(B) in that Respondent has engaged in fraud or material deception in the course of professional services or activities. Specifically, Respondent through his position as operator of the Beech Grove office, failed to forward the required payments to the Highland Office, falsified employee time sheets to perpetuate and conceal his fraud, opened a business checking account without KSE's authorization, and used the unauthorized checking account to divert funds into his personal checking account. Respondent engaged in the aforementioned conduct in connection with his work as a registered professional engineer, and as such, Respondent should be therefore be subject to sanctions pursuant to Ind. Code § 25-1-11-5(a)(1)(B).

b. Count 2: Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-11-5(a)(2)(B) in that Respondent has been convicted of a crime that is harmful to the public, as evidenced by Respondent's conviction for *Theft of Property Having a Value in Excess of \$50, 000*, in Marion County Superior Court, Criminal Division, pursuant to cause number 49G06-1805-F5-015126. Respondent should therefore be subject to sanctions pursuant to Ind. Code § 25-1-11-5(a)(2)(B).

3. Order

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

Respondent's Indiana Professional Engineer license number (summarily suspended) shall be INDEFINITELY SUSPENDED. Respondent's may not petition the Board to remove the suspension from his license until Respondent has fully paid the criminal restitution and has complied with all other requirements of his criminal conviction in the Marion County Superior Court, Criminal Division.

Case No. 4: Notice of noncompliance for failure to obtain thirty hours of continuing education

1. Findings of Fact

- a. This proceeding is pending on Petitioner's petition for review of the Board's Notice of Noncompliance, imposing a civil penalty of one thousand dollars and requiring him to obtain thirty hours of continuing education ("CE") for the reporting period in question.
- b. Petitioner did meet the CE requirements for the reporting period. Petitioner subsequently provided additional documents to the Board that proved his compliance with his CE requirements during the reporting period in question.

2. Conclusions of Law

1. Indiana Code section 25-1-4-5(a) states that when the Board determines after an audit that a practitioner failed to meet the continuing education requirements that it shall:

(1) Send the practitioner notice of noncompliance by certified mail to the practitioner's last known address.

(2) As a condition of license renewal . . . , require the practitioner to comply with [Indiana Code section 25-1-4-5(b)] .

2. Indiana Code section 25-1-4-5(b) states that upon receipt of a notice of noncompliance under [Indiana Code section 25-1-4-5(a)], a practitioner shall do either of the following:

(1) If the practitioner believes that the practitioner has [met the continuing education requirements], within twenty-one (21) days of service of the notice, send written notice to the board requesting a review so that the practitioner may submit proof of compliance.

(2) If the practitioner does not disagree with the board's determination of noncompliance, do the following:

(A) Except as provided in [Indiana Code section 25-1-4-5(d)], pay to the board a civil penalty not to exceed one thousand dollars (\$1000) within twenty-one days of receipt of the notice.

(B) Acquire, within six (6) months after receiving the notice, the number of credit hours needed to achieve full compliance.

(C) Comply with all other provisions of [Indiana Code chapter 25-1-4].

3. Because Petitioner actually met all his CE requirements, an order to make up hours and pay a civil penalty is not appropriate.

3. Order

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that there is no basis for the issuance of a Notice of Noncompliance in this matter and therefore there shall be no Notice of Noncompliance.