



April 25, 2023

Hon. Doug Downey, MPP  
Attorney General of Ontario  
McMurtry-Scott Building  
720 Bay Street, 11<sup>th</sup> Floor  
Toronto, ON M7A 2S9

Dear Attorney General Downey,

On behalf of the Association of Consulting Engineering Companies-Ontario (ACEC-Ontario), and its 140-plus member firms operating across the province, I am writing to you today to request your action on an urgent matter that is highly relevant to the public welfare and safety of Ontarians.

As you know, the practice of professional engineering involves inherent public interest risks. Professional engineers have a duty to safeguard the public welfare, and any negligent performance of their work can have dire consequences for the people of Ontario. The *Professional Engineers Act* ("the Act") endeavours to create a regulatory framework to manage and mitigate those risks through, among other things, standards of qualification and standards of practice.

A key element in that framework is the requirement for entities that offer and provide professional engineering services to the public to carry minimum levels of professional liability insurance. Such insurance is a risk transfer mechanism that protects the client, and others who may be impacted by the work over time, against the consequences of negligence on the part of the entity providing the engineering services. Professional engineers may work to high standards, but they are still human and mistakes happen.

Unfortunately, the regulations under the Act contain an exception which negates that protection and allows engineering entities to operate without insurance. The exception allows for disclosure by the entity to the client that they are not insured in accordance with the Act, and receipt of written authorization from the client to carry out the work regardless. The required disclosure does not obligate the entity to identify or quantify the risks or the consequences of uninsured engineering practice. As a result, the client is not providing informed consent. The risks are not managed or mitigated in any way.

The exception was introduced with major Act revisions in 1984, at a time when professional liability insurance was deemed prohibitively expensive for very small engineering firms.

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Nowadays, affordable professional liability insurance is available to firms of any size and should be viewed as part of the cost of doing business. ACEC-Ontario has two dozen member firms with fewer than 10 staff, and all carry professional liability insurance. It's time for this exception to be eliminated.

The public interest risk created by this exception is not small. In 2018, the regulator, Professional Engineers Ontario (PEO), reported that of the **5,673** entities that were authorized to provide engineering services to the public, **1,290** of them – more than **20%** - were operating without professional liability insurance by relying on this exception. These significant public interest risks are not borne only by the project owner or client. The risks of negligent professional engineering work continue long after the work is completed and can impact the welfare of countless people across the province.

There is no other regulated profession in Ontario that allows its practitioners to offer and provide services at arm's length without insurance. An exemption like this in the field of medicine, or any of the related health professions, or in the legal profession, would be untenable. It should not be allowed in the engineering profession.

Despite raising this issue with the regulator on multiple occasions in previous years (see attached letters), PEO has shown no interest in eliminating this dangerous exception. Addressing this public safety issue cannot wait any longer and the fix is quite simple. We are asking that you repeal subsections 74(2)(d) and 74(3) from Regulation 941 under the Act as soon as possible so Ontarians can continue to have confidence in the work of all professional engineering firms.

Should you have any questions, or would like to discuss further, please contact me directly at [bgmatthews@acecontario.ca](mailto:bgmatthews@acecontario.ca) or 416-620-1400 Ext.224. We look forward to working with you.

Sincerely,

A handwritten signature in blue ink, appearing to read 'B. Matthews', written in a cursive style.

Bruce G. Matthews, P. Eng.  
Executive Director

Attachments: (2)

cc. Jennifer Quaglietta, P.Eng., CEO/Registrar, Professional Engineers Ontario  
ACEC-Ontario Board of Directors