

TBPG Rule Amendments– Adopted by TBPG 11/18/2011; Became effective 1/1/2012

Please note: New language is underlined, and deleted language is [bracketed].

§851.104. Dishonest Practice.

(a) - (f) (No change.)

~~[(g) All advertisements or announcements of professional services which a Professional Geoscientist, Geoscientist-in-Training, or Geoscience Firm offers, including telephone directory listings, business cards, etc. shall clearly state the person's or firm's licensure, registration or certification designation.]~~

[(g) [(h)] Information used by a Professional Geoscientist, Geoscientist-in-Training, or Geoscience Firm in any advertisement or announcement shall not contain information which is false, inaccurate, misleading, incomplete, out of context, deceptive or not [readily] verifiable. [Advertising includes, but is not limited to, any announcement of services, letterhead, signage, business cards, commercial products, and billing statements.]

[(h) [(i)] A [Professional Geoscientist, Geoscientist-in-Training, or] Geoscience Firm which [who] retains or hires others to advertise or promote the firm's [licensee's] practice remains responsible for the statements and representations made.

[(i) [(j)] A Professional Geoscientist may [shall] use the identification "Professional Geoscientist" or the initials, "P.G.":

(1) In the professional use of the license holder's name, whether P.G. is in an exempt or non-exempt professional geoscience setting; and

(2) In connection with any sign, directory, contract, document, pamphlet, stationery, advertisement, signature, or other means of written professional identification.

[(j) [(k)] A Geoscientist-in-Training may [shall] use the identification "Geoscientist-in-Training" or the initials, "GIT":

(1) In the professional use of the license holder's name; and

(2) In connection with any sign, directory, contract, document, pamphlet, stationery, advertisement, signature, or other means of written professional identification.

[(k) A Professional Geoscientist shall use the identification "Professional Geoscientist" or the initials, "P.G.":

(1) In advertising communications where a Professional Geoscientist is intentionally offering Professional Geoscientist services; and

(2) In professional communications, including reports and findings and geoscience documents, where a Professional Geoscientist is intentionally indicating that the communication is a professional geoscientific work product.

§851.108. Criminal Convictions.

(a) The Board will adhere to Texas Occupations Code Chapter 53 regarding application for a license or suspending or revoking an existing license due to conviction of a crime that directly relates to the duties and responsibilities of a Professional Geoscientist.

~~[Pursuant to Texas Occupations Code Chapter 53, the Board may suspend or revoke an existing license or disqualify a person from receiving a license because of the person's conviction of a crime if the crime directly relates to the duties and responsibilities of a Professional Geoscientist. The following procedures will apply in the consideration of an application for licensure as a Geoscientist or in the consideration of a Licensee's criminal history:]~~

~~[(1) Each Applicant will be required to provide information regarding the Applicant's criminal history as part of the application process. Each Licensee will be required to report any criminal conviction to the Board within thirty (30) days of the date the conviction is entered by the court and to verify the status of the Licensee's criminal history on each license renewal form. An Applicant or Licensee shall not be required to report a conviction for a minor traffic offense.]~~

~~[(2) An Applicant or Licensee who has been convicted of any crime will be required to provide a summary of each conviction in sufficient detail to allow the Executive Director to determine whether it appears to directly relate to the duties and responsibilities of a Professional Geoscientist.]~~

~~[(3) If the Executive Director determines the conviction might be directly related to the duties and responsibilities of a Professional Geoscientist, the Board's staff will obtain sufficient details regarding the conviction to allow the Board to determine the effect of the conviction on the Applicant's eligibility for licensure or on the Licensee's fitness for continued licensure.]~~

~~[(b) In determining whether a criminal conviction is directly related to the duties and responsibilities of a Professional Geoscientist, the Executive Director and the Board will consider the following:]~~

~~[(1) The nature and seriousness of the crime;]~~

~~[(2) The relationship of the crime to the purposes for requiring a license to practice geoscience;]~~

~~[(3) The extent to which a Professional Geoscientist license might offer an opportunity to engage in further criminal activity of the same type as that in which the Applicant or Licensee had been involved; and]~~

~~[(4) The relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of a Professional Geoscientist.]~~

~~[(e) In addition to the factors that may be considered under subsection (b) of this section, the Executive Director and the Board shall consider the following:]~~

~~[(1) The extent and nature of the Applicant's or Licensee's past criminal activity;]~~

~~[(2) The age of the Applicant or Licensee at the time the crime was committed and the amount of time that has elapsed since the Applicant's or Licensee's last criminal activity;]~~

~~[(3) The conduct and work activity of the Applicant or Licensee prior to and following the criminal activity;]~~

~~[(4) Evidence of the Applicant's or Licensee's rehabilitation or rehabilitative effort;]~~

~~[(5) Other evidence of the Applicant's or Licensee's present fitness to practice as a Professional Geoscientist, including letters of recommendation from law enforcement officials involved in the prosecution or incarceration of the Applicant or Licensee or other persons in contact with the Applicant or Licensee; and]~~

~~[(6) Proof that the Applicant or Licensee has maintained steady employment and has supported his/her dependents and otherwise maintained a record of good conduct and has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered.]~~

~~(b) [(d)] Crimes directly related to the duties and responsibilities of a Professional Geoscientist include any crime that reflects a lack of fitness for professional licensure or a disregard of the standards commonly upheld for the professional practice of geoscience, such as the following:~~

~~(1) Criminal negligence;~~

~~(2) Soliciting, offering, giving, or receiving any form of bribe;~~

~~(3) The unauthorized use of property, funds, or proprietary information belonging to a client or employer;~~

~~(4) Acts relating to the malicious acquisition, use, or dissemination of confidential information related to geoscience; and~~

~~(5) Any intentional violation as an individual or as a consenting party of any provision of the Act.~~

~~[(e) The Board shall revoke the license of any Professional Geoscientist who is convicted of any felony if the felony conviction results in incarceration. The Board also shall~~

~~revoke the license of any Professional Geoscientist whose felony probation, parole, or mandatory supervision is revoked.}~~

~~{(f) If an Applicant is incarcerated as the result of a felony conviction, the Board may not approve the Applicant for licensure during the period of incarceration. If an Applicant's felony probation, parole, or mandatory supervision is revoked, the Board may not approve the Applicant for licensure until the Applicant successfully completes the sentence imposed as a result of the revocation.}~~

(c) ~~[(g)]~~ If the Board takes action against any Applicant or Professional Geoscientist pursuant to this section, the Board shall provide the Applicant or Licensee with the following information in writing:

(1) The reason for rejecting the application or taking action against the Licensee's license;

(2) Notice that upon exhaustion of the administrative remedies provided by the Administrative Procedure Act, Chapter 2001, Texas Government Code, an action may be filed in a district court of Travis County for review of the evidence presented to the Board and its decision. The person must begin the judicial review by filing a petition with the court within thirty (30) days after the Board's decision is final; and

(3) The earliest date the person may appeal.

(d) ~~[(h)]~~ All proceedings pursuant to this section shall be governed by the Administrative Procedure Act, Chapter 2001, Texas Government Code.

§851.156. Professional Geoscientist's Seals.

(a) - (i) (No change.)

(j) The Professional Geoscientist shall sign, seal and date the original title sheet of bound geoscience reports, specifications, details, calculations or estimates, and each original sheet of plans or drawings regardless of size or binding if the plans or drawings are intended to be or are removed from the report. All other geoscience work, including but not limited to research reports, opinions, recommendations, evaluations, addenda, documents produced for litigation, and geoscience software shall bear the Professional Geoscientist's printed name, date, signature and the designation "P.G." or other terms allowed under §1002.251 of the Act, unless the work is exempt under §1002.252 of the Texas Occupations Code. ~~[A seal must be added on such work if required by the entity receiving the work; otherwise it may be added at the Professional Geoscientist's discretion.]~~ Electronic correspondence of this type shall include an electronic signature as described in subsection (f) of this section or be followed by a hard copy containing the Professional Geoscientist's printed name, date, signature and the designation "P.G." or other terms allowed under §1002.251 of the Act.

(k) - (p) (No change.)