

Ethics and Geoscience Practice in Texas-2023

Texas Commission on Environmental Quality
Environmental Trade Fair and Conference
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Who Needs Geoscientists?



Who Needs Geoscientists?

We all do.

Geoscientists will help solve the energy and resource challenges of the future.

Geoscientists will model climate change by comparing models to identified changes in our geologic past.

Geoscientists are needed to assess and communicate risks from natural hazards such as volcanism, earthquakes and tsunamis.

Who Needs Geoscientists?

Hydrogeologists are needed to locate aquifers and protect them from pollutants.

Geoscientists will play a large role in educating the public, regulators, and legislators. We need to publicize the benefits that geoscience brings to society, and to encourage a new generation to study it.

We need to send a clear message to society that Geoscientists are a vital part of the solution to achieving a prosperous, yet sustainable, future for our planet.

Who needs Geoscientists? Everyone.

Welcome

2500 years of Ethics Research

Socrates, Plato, and Aristotle founded the philosophical study of what is now thought of as ethics. Because humans behave now as they did then, the concepts have not really changed. People still want to be happy and stay out of trouble, but temptations sometimes get in the way.

Ethics principles are the result of observations of thousands of people over thousands of years.

Their errors and successes have been distilled into principles that lead to better personal and business relations and outcomes.

Modern Concepts

Ethics is the set of moral principles that guide people to make the best decisions, and to lead their lives in ways that are good for other people and society.

Morals are obligations, rights, and principles that one should accept and follow. They are not the code of a particular society, group, or individual.

Ethics is not only a body of knowledge that can be taught. It's also a skill that must be cultivated.

12 Ethics Principles

- Be Honest
- Show Integrity
- Follow the Law
- Commit to Excellence
- Be Loyal
- Be Fair
- Respect Others
- Concern for others
- Keep your Promises
- Be a Leader
- Be Reputable & Moral
- Be Accountable

Is it important?

Is it really that important to learn about ethics rules?

Ethics rules are not only constraints, but also the means by which you can make the best decisions about your actions.

The rules are not just confining limits to operate within – they're also the path to successful personal and business relations.

The Yellow Brick Road

Dorothy in the Wizard of Oz was told to “Follow the Yellow Brick Road”.

She was also warned to stay on that road – the road formed her limits, but it also led to her goal.

So, think of ethics rules this way

Do I have to practice?

To strengthen your understanding of ethical rules and principles, you need study, immersion, and problem-solving experience which leads to self-confidence and ethical intuition.

Ethical intuition leads to quicker and better analyses and solutions to your ethical challenges

Ethical Dilemmas

When faced with a dilemma, people can stray off the ethical path if they look only for the easiest way to solve their problem

The pressure of the moment can cause bad judgement, and that can lead to ethical errors and unwanted consequences

Ethical Dilemmas

Real-life ethical dilemmas will be unique to the situation, the people involved, the timing, and the real and perceived consequences of your decision.

To resolve such a challenge – and live to tell about it – you must have intuition and confidence that can come by studying and knowing ethics rules and case studies.

You can't control the circumstances, but you can control how you react to them by practicing the rules and principles.

Good News

You can learn to do the right thing in difficult situations

You can become an ethics expert

You can learn ethics concepts and how to make the right decisions

Planning *and practicing* your ethical responses will help you avoid reputation- and company-killing consequences

TBPG Rules and the Code of Conduct

The Texas Geoscience Practice Act became effective in 2003.

Geoscience practice in Texas is guided and governed by the TBPG Rules and the Code of Professional Conduct found in Texas Administrative Code Chapters 850 and 851.



Texas Board of Professional Geoscientists

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Upcoming Events

There are no upcoming

TBPG Mission

The mission of the Texas Board of Professional Geoscientists is to protect public health, safety, welfare, and the state's natural resources by ensuring only qualified persons carry out the public practice of geoscience and enforcing the Code of Professional Conduct the Board has established for its licensees.

About Us

TBPG Code of Professional Conduct

The TBPG Code contains the same principles used in conduct codes of many other professional organizations. It's a guide to help professionals conduct themselves and their business ethically, honestly, and fairly.

The following is a summary of the rules in our Code of Conduct. In this review, if there is a conflict between the Rules and this presentation, the TBPG Rules prevail.

- During this presentation, I will use the terms “TBPG” or “Board” to refer to The Texas Board of Professional Geoscientists
- I will use “PG” to collectively refer to Licensed Professional Geoscientists, Certified Geoscientists-in-Training, and Registered Geoscience Firms

Chapter 851 TBPG Licensing and Enforcement Rules

Subchapter C. Code of Professional Conduct

§851.101. Code of Professional Conduct

§851.102. Competence/Negligence

§851.103. Recklessness

§851.104. Dishonest Practice

§851.105. Conflicts of Interest

§851.106. Responsibility to the Regulation of the Geoscience Profession and Public Protection

§851.107. Prevention of Unauthorized Practice

§851.108. Criminal Convictions

§851.109. Substance Abuse

§851.110. Effect of Enforcement Proceedings on Application

§851.111. Confidentiality

§851.112. Required Reports to the TBPG

§851.113. Duty to abide by Board Order and timely pay penalties

Chapter 851 TBPG Licensing and Enforcement Rules

Subchapter C. Code of Professional Conduct

§851.101

This Code is binding on all applicants, license holders & licensees eligible to renew (incl. exempt practice like O&G exploration).

Allows TBPG to impose sanctions on violators.

PGs, GITs, and Firms must understand and comply with the Geoscience Act, the TBPG rules, and any other law or rule pertaining to the practice of professional geoscience.

Does not define standards of care in civil actions against a PG, Firm, or GIT involving professional acts.

§851.102. Competence/Negligence

A PG or Firm will perform only the professional services for which they are qualified by education and experience.

A PG or Firm will act with reasonable care and competence and will use the technical knowledge and skill applied by reasonably prudent PGs.

A PG who signs or seals any document must be qualified to give opinion on the work covered by the document.

A PG or Firm must not exhibit Gross Incompetence, showing inability, or lack of skill or knowledge, or unwillingness to apply principles or skills.

§851.103. Recklessness

A PG or Firm shall not practice geoscience using standards and procedures [that] are reasonably likely to result in the endangerment of public safety, health, or welfare.

This includes conscious disregard of substantial risk & failure to comply with regulations.

§851.104. Dishonest Practice

A PG, GIT or Firm shall not defraud, deceive, or create a misleading impression.

Inaccurate advertising, statements, or exaggerated claims or results are not allowed.

A PG, GIT or Firm shall not solicit or offer, give or receive, any service or thing to induce or reward someone in order to secure geoscience services.

§851.105. Conflicts of Interest

If a PG, GIT or Firm has any business association or financial interest which might reasonably appear to influence their judgment...they shall

Inform the client or employer in writing

Obtain client's written consent to continue the work

Unless consented to, must terminate either the work or the interest.

A PG, GIT or Firm shall not solicit or accept... any financial or other valuable consideration... from more than one party in connection with a single project ... unless ... fully disclosed in writing to all parties.

This includes suppliers, contractors, and consultants.

§851.106. Responsibility to the Regulation of the Geoscience Profession and Public Protection

A PG, GIT or Firm shall ... protect the public... and shall not...knowingly participate....in any plan...[to] violate ...the Act or the rules of the TBPG;

Nor aid or abet unlicensed practice;

Nor Fail to...prevent partners, associates, shareholders, or employees from...violating any provision of the Act or the TBPG rules.

A PG shall be responsible and accountable for...the use of their seal, professional signature, and other professional identification. If lost, immediately report it to the TBPG.

§851.106. Responsibility to the Regulation of the Geoscience Profession and Public Protection

A PG, GIT, or Firm is obligated to protect public health...and... report known or suspected violations [to] TBPG.

A PG or Firm shall keep adequate records of geoscience services provided to the public for no less than five (5) years...

- Signed/Sealed documents & supporting documentation

- Descriptions of offered geoscience services;

- Billing, payment, and financial communications.

A PG, GIT or Firm must adequately examine the environmental impact of their actions and projects, including the prudent use and conservation of resources and energy.

§851.107. Prevention of Unauthorized Practice

A PG, GIT or Firm shall not practice... in another jurisdiction [that has] a law regulating the practice of geoscience in that jurisdiction.

If a PG or Firm fails to renew his/her license or registration prior to its annual expiration date, [the licensee] shall not use the title "Professional Geoscientist", or the initials "PG", and shall not offer to, or [actually] engage in, the public practice of professional geoscience... until the license has been properly renewed.

Similarly, GITs cannot use the initials "GIT" until the license is properly renewed.

§851.108. Criminal Convictions

With regard to criminal convictions and licensure, TBPG adheres to the Texas Occupation Code (TOC) Chapter 53.

TBPG can suspend or revoke a license, or deny licensure, because of criminal convictions. Licenses are automatically revoked upon felony incarceration.

Any license holder whose license has been revoked due to incarceration, under the provisions of TOC53, may apply for a new license upon release from incarceration.

§851.109. Substance Abuse

If a PG's abuse of alcohol or a controlled substance.... contributed to a violation of the TBPG Act or rules, the TBPG may require the PG to complete a rehabilitation program approved by the Department of State Health Services.

A PG's abuse of alcohol or a controlled substance may be deemed "Gross Incompetency".

TBPG may order an examination by one or more licensed health care providers that provide diagnoses or treatment of substance abuse.

§851.110. Effect of Enforcement Proceedings on Application

TBPG may not issue a license pending the disposition of a complaint alleging a violation in Texas, or another state, if the TBPG has notice of the alleged violation.

§851.111. Professional Geoscientists Shall Maintain Confidentiality of Clients

A PG, GIT or Firm may reveal confidences and private information only:
with a fully informed client's or employer's consent,
when required by law, rule or court order; or
when those confidences, if left undisclosed, would constitute a threat to the health, safety or welfare of the public.

Licensees shall take reasonable care to prevent disclosure or use of private information or confidences concerning a client or employer.

§851.112. Required Reports to the TBPG

A PG, GIT or Firm shall notify TBPG in writing within thirty (30) days of:

Changes in a firm's name, the Authorized Official of the Firm, the firm's owners, officers, or directors, PGs employed by the firm, PGs who serve as the PG in Responsible Charge for the firm or any branch offices, phone numbers of the AOF or PGs;

Changes in a PG's or GIT's contact information, and any changes in employment status with a firm;

A criminal conviction (excludes Class C misdemeanor/traffic offense) of PG or GIT;

Any civil settlement or judgment against a PG or Firm relating to professional geoscience services;

Final disciplinary or enforcement actions against the PG, GIT or Firm taken by a licensing or certification body related to the practice of professional geoscience.

Failure to make a required report is grounds for disciplinary action by TBPG.

§851.113. Duty to abide by Board Order and timely pay administrative penalty

Failure to abide by the terms of a Board order is grounds for disciplinary action.

Administrative penalties must be paid in 30 days.

Failure to timely pay an administrative penalty is grounds for disciplinary action.

TBPG may deny a person's request for a license, registration certification, or renewal if administrative penalties are not timely paid.

TBPG may first apply money paid to outstanding administrative penalties before applying it to any other fee or cost.

Code of Conduct Summary

Learn these rules.

Don't let an ethical surprise force you to make a bad decision or take the wrong action.

Practice these rules to guide your actions and keep you from committing ethical blunders.

“Victory awaits him who has everything in order - luck people call it.
Defeat is certain for him who has neglected to take the necessary
precautions in time; this is called bad luck.”

- Roald Amundsen

Example Ethics Situations

Be the best

The best geologists are those who have seen
the most rocks

The best ethical geoscientists are those who have
read the most case studies

Appropriate Wedding Gifts?

You're an officer in a geoscience firm and one of your managers was just married. While telling you about the event, he mentions that two interns he supervises, who were also his college buddies, were at the reception. They each gave him \$1,000 as a wedding gift.

What should you do? The mere appearance of impropriety can be as powerful as the reality. A third party (attorney) could interpret the gifts as an attempt to influence from the interns. Or the interns might have felt they were compelled to make such a gift. Either way, the gifts could be perceived as a conflict of interest and the manager should return the gifts.

Proper analysis?

You review a Phase II ESA for a site that was a gas station for about 50 years. The report concluded there were no impacts, and no further assessment is recommended.

As you look more critically, you realize that sample locations and depths discussed in the report don't match the sample data on the lab report.

You reject the ESA conclusions, but should you also report the breach of ethics to the TBPG? **The errors or negligence in this report are significant and might need to be investigated. These errors should be reported.**

Should this be reported?

A licensed environmental consulting company was hired to confirm that runoff from a proposed construction site would not adversely affect water quality in a nearby stream. After analysis but before preparing a written report, the consulting company verbally advised client that the runoff **will** adversely affect water quality and that remediation will be expensive. The client instructed the consulting company not to file a written report, pays them, and terminates the contract.

The consulting company learned that the client appeared at a public hearing with data showing compliance. What should the consulting company do?

It should be reported. That the client did not report the likely water quality is a risk to public health, safety, and welfare. The licensed consulting company is required by the code of conduct rules to report this to regulators.

Should I accept?

After arriving at a remote site, a Texas PG realizes she had forgotten her safety boots. As a courtesy, the staff at the site offer her a new pair of safety boots, saying that they routinely make boots available to visitors who don't have them.

The PG's employer has a written policy that forbids accepting gifts valued at more than \$100 and she knows these boots cost much more than that.

If she returns to her motel to get her own boots, she can't complete the inspection that day, and her visit would have to be rescheduled, causing inconvenience, delay, and additional cost.

What should she do? Since this is a company policy matter, as well as a potential conflict of interest, she could respectfully decline the boots and reschedule the visit or accept the boots and inform her employer. She could also simply use the boots during the visit and return them or pay for them.

Should I report this?

A licensed PG owns land in a rural area. He learned that a dam is proposed near his property. Knowing the subsurface geology of the area, he realized the proposed reservoir behind the dam was overlying a major regional fault. His concern was that the mass of the impounded water or movement on the fault could cause ground movement and catastrophic failure of the dam. His other investigations of conditions of the ground under the proposed lake identified evidence that reinforced his suspicions.

The PG's property might be made more valuable by being on the proposed lake shore. Other residents were in favor of the dam because of potential economic development. Should the PG do anything about this?

Again, the licensed PG observed a potential risk to public health, safety, and welfare. The PG is required by his code of conduct to report his concerns to regulators. They can decide whether additional studies are needed.

Summary

Every person should have a personal ethics code – one that says, “No matter what, I will not do *that*.”

Study, learn, and practice your ethics principles.

It is your responsibility to know and understand the TBPG Rules. If you don't know an answer, call or contact TBPG. We may be able to keep you from making a costly mistake.

Frequent review is the best way to keep ethical rules and solutions in mind. Once a year is probably not enough.

Ethics knowledge and compliance must be part of your culture

Board Disciplinary Actions

Issuing geoscience reports without Firm Registration

An unregistered Firm issued as many as 50 geoscience reports during a one-year period.

The PG who signed the reports violated the Rules by aiding and abetting a business entity in the unregistered practice of geoscience and failing to provide the required Firm Registration Number on sealed reports.

The Board assessed the unregistered Firm and PG each a \$1,000 Administrative Penalty.

Failure to seal Phase II Reports

A PG issued 900 unsealed Phase II reports.

When notified, the PG said that he signed only reports that were submitted to TCEQ. The PG estimated that 400 - 500 total authored Phase II reports were unsealed.

[Phase II reports **MUST** be sealed, whether for private clients or for government submission.] The Board assessed a \$5,000 Administrative Penalty for these violations.

PE Firm's Geoscience not signed or sealed

TBPG found that Reports issued by a PE firm were submitted to private clients and TCEQ, but were not signed & sealed by a PE or a PG.

In some reports, no PE sealed the document because they weren't qualified for the geoscience work – a PG needed to seal that work

For others, the PG who did the work left the firm before the reports were final and no other person would take responsible charge of the work

Still others believed that doing geoscience for a PE Firm meant that no seal was required. **[Know The Rules!]**

Deceptive Practice

A Registered Firm deceptively renewed the license of a PG who had passed away 10 years earlier.

Once might be an oversight, but the firm renewed the license **10 times**.

The firm also renewed their Firm Registration **9 times**, but they failed to notify TBPG in writing that they changed the PG in Responsible Charge for the firm.

The Board assessed a **\$60,000** Administrative Penalty.

Summary

Some people practicing geoscience and filing reports are not careful about the TBPG Rules and the Code of Professional Conduct.

Some of these cases were settled before TBPG's penalty limits were raised. More substantial monetary penalties can now be assessed.

It is the responsibility of PGs and Firms to know the Rules and the Code of Conduct.

Recent Board Activity

Licensing Statistics Jan 31, 2023

3232 – Licensed PGs (~90% Geol, ~7% Geoph, ~3% Soils)

2230 – Under age 65

1002 – 65 and older

2042 – 55 and older

238 – GITs

342 – Licensed Geoscience Firms

Waiver policy changes

Waiver policies for the Texas Geophysics Exam and Council of Soil Science Examination have been updated and now are in effect

Requirements for the Waiver are like those for the ASBOG Practice of Geology Examination

Texas Fundamentals of Geophysics Examination (TFGE) for those wanting GIT Certification in Geophysics is not eligible for a waiver

Changes to ASBOG testing

ASBOG starts Computer-Based Testing this month

ASBOG contracted with Prometrics to administer the exams

There are 48 Prometrics testing sites in 24 Texas cities

At present, testing will be offered twice per year

Other Board activity February 2023

Rules permitting Electronic signing & sealing of reports has been approved by the Board and posted to the *Texas Register* for public comments.

We are working to define if and how we can make it possible for PGs licensed in one discipline (Geology, for instance) to be licensed to practice in the Soil Science or Geophysics discipline (rules, education, equivalency).

We're also looking at implementing an Emeritus PG status.

These will be discussed again in future meetings.

Let us know if you have opinions about these items

From the Board...

The population of Geoscientists who are likely qualified for licensing is very large compared to the number who are licensed. If you are a PG, please consider the future of quality geoscience practice in Texas.

In the next 50 years, we will need many new geoscientists to help secure reliable water supplies for the current and expected population.

If you know a student who is interested in geoscience, please encourage and mentor.

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Rules Workshop

What if your License expires?

851.28. License Renewal and Reinstatement

- Licenses can be renewed up to 3 years after the license expiration date.
- Procedures and fees vary according to the time period since expiration.

851.28. License renewal and Reinstatement

- License expired less than 60 days: submit PG Renewal Application (Form B) and pay annual renewal fee.
- License expired 60 days to 10 months: file Form B, pay annual renewal fee and a late penalty fee (now \$50). Submit a Statement of Affirmation (Form VII) declaring whether they practiced as a PG when their license was expired. If did practice with expired license, licensee may face disciplinary action.

851.28. License renewal and Reinstatement

- License expired 10 months to 3 years: Form B, pay the renewal fee *for each year missed*, the current year renewal fee, the late penalty fee, and Form VII.
- A license expired for 3 years is permanently expired and cannot be renewed. The former licensee may apply for a new license but must meet all licensure requirements and rules at the time of re-application.

Clarifying the Continuing Education policy

851.32 – Continuing Education

- Fulfilling Continuing Education Program (CEP) requirements for professional development is a condition for license renewal
- The unit for CEP reporting is the Professional Development Hour (PDH); a clock hour (+/-) of CEP activity
- CEP activity is any qualifying course or activity with a clear purpose and objective, to maintain, improve, or expand the skills and knowledge relevant to your field of practice

851.32 – Continuing Education

- Each year 15 total hours (PDH units) are required
- 1 PDH each year must be in professional ethics, or roles and responsibilities of Professional Geoscientists, or review of the Texas Geoscientist Practice Act and TBPG rules
- If more than 15 PDH per year are earned, you can carry forward 30 PDH into the following year – but must still earn 1 PDH each year in professional ethics

851.32 – Continuing Education

- University credit courses (15 PDH/course hour)
- CE courses offered by a professional organization, university, in-house by a corporation, professional society, associations, or similar groups
- On-line, televised, videotaped, or other short courses/tutorials
- Presenting or attending seminars, presentations made at meetings or conventions, sponsored by a professional society, company, employer, or similar groups
- Teaching or instructing a course or seminar for the first time only

851.32 – Continuing Education

- Authoring published papers, articles, books, or accepted licensing examination items
- Active participation in professional or technical societies, associations, or organizations, including:
 - Serving as elected or appointed official; on a committee of the organization; or in other official positions
 - Maximum 5 PDH per year
- Patents issued
- Engaging in self-directed course work - maximum 5 PDH per year
- Publishing software programs
- All CE activities must be relevant to the practice of geoscience and may include technical, ethical, or managerial content

Thanks to all of you...

The work you perform is important.

Be proud of your role in protecting the
environment and the people of Texas

TBPG is committed to ensure that only those who meet established standards are licensed to carry out the practice of geoscience in Texas

TBPG wants to maintain high-quality geoscience practice in Texas

Sloppy or illegal practice can endanger the public and the credibility of all geoscientists

If you see bad geoscience work, please contact us

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