



ETHICS IN GEOSCIENCE

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Ethics: a set of values
that define or direct us
to the right choice.

Personal Moral Code/Ethics



- Knowing the difference between right and wrong
- Often grounded in religious beliefs or societal customs
- Not a legal requirement

Personal vs Professional Ethics



- Most people do not make a distinction between morality and ethics.
 - ❖ Morality refers to your own personal moral choices.
 - ❖ Ethics refers analyzing all values and perspectives.
- Professionals cannot rely solely on moral “right or wrong” - they must evaluate the perspectives of others involved, and applicable regulations.

Personal vs Professional Ethics

Should religious or cultural beliefs influence your professional decisions?

HOBBY LOBBY®

Super Savings, Super Selection!™

Burwell v. Hobby Lobby Stores, Inc.



- Under the Affordable Care Act, for-profit employers were required to cover contraceptives for female employees.
- Landmark decision: Supreme Court voted 5-4 that closely held for-profit corporations could be exempt from a regulation that its owners religiously object to (under the Religious Freedom Restoration Act (RFRA)). [Burwell v. Hobby Lobby, 573 U.S., 2014]
- First time that the court has recognized a for-profit corporation's claim of religious belief, but it is limited to closely held corporations.
- The ACA provides a government-sponsored alternative for any female employees of closely held corporations that do not wish to provide birth control.

Burwell v. Hobby Lobby Stores, Inc.



- Note that Hobby Lobby owners (Green and Hahn families) contested only four FDA-approved contraceptives that may prevent implantation of a fertilized egg (which the owners believe constitutes an abortion):
 1. Plan B (levonorgestrel) and generics (*used for emergency birth control and a common component of all birth control pills*)
 2. Ella (ulipristal acetate) (*used for emergency birth control and uterine fibroids.*)
 3. ParaGard (copper IUD) (*used for emergency birth control and contraception*)
 4. Mirena and Skyla (levonorgestrel-releasing IUDs) (*used for birth control, heavy periods, and HRT*)

Note that all 4 are on the WHO's List of Essential Medicines, i.e., the most effective and safe medicines needed in a health system.

Burwell v. Hobby Lobby Stores, Inc.



- The Green family says it has no moral objection to other contraceptives, only those that constitute abortion.
 - ❖ Closely-held: owned by two families.
 - ❖ Religious: No Hobby Lobby store is open on Sunday “in order to allow our employees and customers more time for worship and family.”
- The ruling indicates religious freedom is more important than health care mandates.

Burwell v. Hobby Lobby Stores, Inc.



- Were all sides considered in this decision?
- What about women who use these drugs for treatment other than contraception?
- Note that employees are not required to subscribe to the same religious beliefs to be an employee.
- Should the family religious beliefs be forced on employees?

Burwell v. Hobby Lobby Stores, Inc.

Is this Ethics or *Morals*?



U.S. Health and Human Services

Newly announced Conscience and Religious Freedom Division

Conscience & Religious Freedom Division



- January 18, 2018
- HHS Announces New Conscience and Religious Freedom Division housed in the Office for Civil Rights (OCR)
- Established to restore federal enforcement of laws that protect the fundamental rights of conscience and religious freedom in the medical profession.
- Doctors and nurses can refuse to perform medical treatment that isn't congruous with their religious beliefs.

Conscience & Religious Freedom Division



“Laws protecting religious freedom and conscience rights are just empty words on paper if they aren’t enforced. No one should be forced to choose between helping sick people and living by one’s deepest moral or religious convictions, and the new division will help guarantee that victims of unlawful discrimination find justice. For too long, governments big and small have treated conscience claims with hostility instead of protection, but change is coming and it begins here and now.”

– OCR Director Severino

Conscience & Religious Freedom

Strength: protects religious freedom (Bill of Rights).

Fear: doctors and nurses could refuse service to anyone that doesn't conform to their specific religious beliefs.



Integrity is doing the right thing,
even when no one is watching.

C.S. Lewis

Academic Misconduct



Academic Misconduct



- 60.8% admitted to cheating.
- 16.5% of them didn't regret it and felt no guilt.
- 85% think cheating is essential.
- 95% of cheaters don't get caught.
- 75% to 98% of college cheaters also cheated in high school.

– Ad Council and Educational Testing Service. 30,000 students polled

Academic Misconduct



- Cheaters have a 3.41 average GPA while non-cheaters average at 2.85.
- Many feel compelled to cheat because of significant academic rewards for high GPAs.
 - Fordham University poll



- Only 41% of Americans and 34% of college officials considered academic cheating a serious issue.
 - Ad Council and Educational Testing Service

Why Cheat?

Reason Provided		%
1	Need to Improve Grades	71
2	Laziness	38
3	Stress/Fear/Pressure	28
4	Poor Organization/Time Management	26
5	Lack of Preparation	24

Cheating

Do the ends justify the means?

Business Ethics



Business – Ethics and Laws



- General ethics apply to business
- Laws and regulations also apply:
 - ❖ insider trading
 - ❖ bribery
 - ❖ discrimination
 - ❖ corporate social responsibility
 - ❖ fiduciary responsibilities
- Voluntary policies may also apply if businesses want to gain public acceptance.

Business – Ethics and Laws



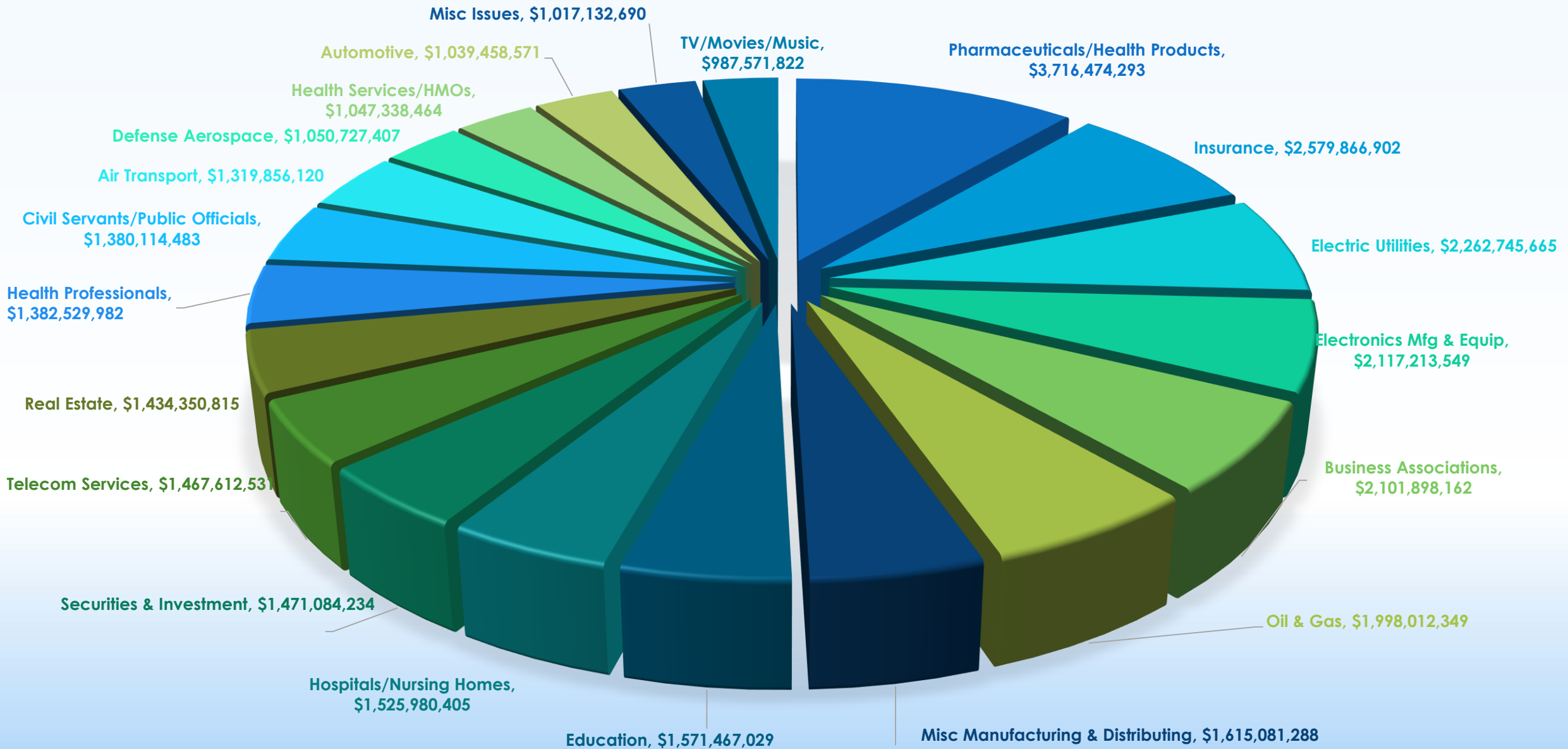
- These can be applied at the corporate level or at the individual employee level.
- Every employee must make ethical decisions in the completion of their job duties.

Examples

Congressional Lobbying

Congressional Lobbying = \$33,086,516,761

Center for Responsive Politics. <https://www.opensecrets.org/lobby/top.php?indexType=F>



Congressional Lobbying



- Corporations now spend ~\$2.6 billion a year on reported lobbying expenditures.
 - ❖ House (\$1.18 billion)
 - ❖ Senate (\$860 million)
- The federal budget to run the entire House is \$2 billion.
- Corporate lobbying began to regularly exceed the combined House-Senate budget in the early 2000s.

Congressional Lobbying



- The biggest companies have upwards of 100 lobbyists representing them.
- Corporations spend \$34 for every one dollar spent by labor unions and public-interest groups combined
- Of the 100 organizations that spend the most on lobbying, 95 consistently represent business.

Congressional Lobbying

Could ethics be
compromised when
lobbying exceeds your
annual budget?

Examples

Perks and Gifting

2017 Corporate Gift Spending Survey



- \$23 billion promotional products industry
- Companies are spending:
 - ❖ average of \$79 per employee, with 23% reporting they will spend over \$100.
 - ❖ average of \$46 to thank customers or prospects for their business.
- Most promotional products are logoed items like pens, mugs and T-shirts given away to advertise their brand.

2017 Corporate Gift Spending Survey



What about non-cash incentives?

- Industry spends > \$90 billion per year on:
 - ❖ free trips
 - ❖ golf outings
 - ❖ tickets to highly desirable events
 - ❖ \$75.6 billion on merchandise & gift cards
 - ❖ 14.6 billion on incentive travel
 - ❖ Up from \$27 billion in 2000 (*300% increase in 17 years*)

Corporate Gifting Regulations



Regulations include:

- IRS (*\$25 per person per year*)
- Federal Acquisition Regulation (FAR) (*\$20/\$50 rule: \$20/person per occasion, not to exceed \$50/yr*)
- Judicial Conference Regulations on Gifts
- Joint Ethics Regulation (DOD)
- Foreign Corrupt Practices Act (DOJ & SEC)
- State regulations on gifting (*may be more stringent than federal*)

Corporate Gifting Regulations



- Gift - any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value, per federal ethics regulations.
- Also includes services, gifts of training, transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

Corporate Gifting Regulations



Under federal ethics regulations, certain items do not meet the definition of a gift, including:

- Modest items of food and refreshments, such as soft drinks, coffee and donuts, offered other than as part of a meal;
- Greeting cards and items with little intrinsic value, such as plaques, certificates, and trophies, which are intended solely for presentation;
- Favorable rates and commercial discounts, available to the public or to a class consisting of all government employees or all uniformed military personnel.
- Rewards and prizes given to competitors in contests or events, including random drawings, open to the public unless the employee's entry into the contest or event is required as part of his official duties;
- Anything, which is paid for by the U.S. government or secured by the U.S. government under a U.S. government contract.

Case Studies

Why do people abandon their business ethics?

Coal-Fired Power Plant Permits – TX, 2005-2009

Coal plant permits – air modeling – wrong wind direction

Gov Perry asked TCEQ to expedite permits for 17 new coal-fired power plants.

Texas Cities for Clean Air Coalition opposed the permits.

TCEQ granted conditional approval.

Technical review revealed that the permits indicated air quality in North Texas would *improve* with the addition of these plants.

Air quality modeling was done using the wrong prevailing wind direction.

This fact was only uncovered by a consultant for the Clean Air Coalition.

Ultimately, only 3 new coal plants were built.

ENRON

Institutionalized, systematic, and creatively planned accounting fraud.

The scandal:

- brought into question the accounting practices and activities of many US corporations
- was a factor in the enactment of the Sarbanes–Oxley Act of 2002.
- caused the dissolution of the Arthur Andersen accounting firm.

In 1990, Enron's COO Jeffrey Skilling hired Andrew Fastow.

In 1993, Fastow began establishing numerous limited liability special purpose entities (a common business practice in the energy sector).

Fastow transferred liability to these special LLCs so that it would not appear in its accounts

- allowing it to maintain a generally increasing stock price and
- keeping its critical investment grade credit ratings.

Many of Enron's recorded assets and profits were inflated or even wholly fraudulent and nonexistent.

Highest stock price: \$90.56.

Lay (CEO) sold \$70 million in stock a few days before the losses were announced. He sold another \$29 million in stock in the open market.

Lay's wife sold \$1.2 million in stock 10 minutes before the losses were announced.

Martha Stewart

Institutionalized, systematic, and creatively planned accounting fraud.

The scandal:

Stewart avoided a loss of \$45,673 by selling all 3,928 shares of her ImClone Systems stock on December 27, 2001.

Peter Bacanovic (Stewart's broker at Merrill Lynch) told Stewart that ImClone's CEO sold his shares in advance of an adverse FDA ruling.

The day following her sale, the stock value fell 16%.

On June 4, 2003, Stewart was indicted on nine counts, including charges of securities fraud and obstruction of justice.

She was convicted in 2004, served a five month term & paid a \$30,000 fine.

She rejoined the board of directors of her company in 2012.

Geoscience

Misappropriation of funds 2014

Treasurer for a Professional Society

Treasurer “borrowed” funds from a professional society.

Funds were used for personal expenditures.

Professional society confronted the treasurer & reported to the licensing agency.

The complainant's primary objective was to secure repayment of funds rather than license revocation.

Therefore they did not notify police and no criminal charges were filed.

Licensing agency imposed conditions on the licensee to ensure repayment of funds, at the request of the complainant.

Geoscience

Geoscience reports not signed or sealed

Final reports are issued that require a seal, but none is present.

TBPG is seeing an increase in the number of reports submitted to TCEQ that require a PG sign/seal, but do not have them.

TCEQ routinely refers these to TBPG for enforcement.

When a complaint is opened, the respondent generally says “I didn’t know.”

Licensees are required to know and follow the rules that apply to them.

Geoscience

Geoscience reports not signed or sealed

Final reports are issued that require a seal, but none is present.

TBPG is seeing an increase in the number of reports submitted to private clients that require a PG sign/seal, but do not have them.

TBPG is receiving these types of documents from third party reviewers.

When a complaint is opened, the respondent generally says “I thought private clients did not constitute public practice.”

Licensees are required to know and follow the rules that apply to them.

Geoscience

Geoscience done by PE firm not signed or sealed

Final reports are issued that require a seal, but none is present.

TBPG is also seeing an increase in the number of reports submitted to private clients and TCEQ that were done by a PE firm, but are not signed and sealed by either a PE or PG.

For some of these complaints, no PE would seal a document because they were not qualified for the geoscience work – meaning that the PG needed to seal the work.

For others, the PG had left the firm before the reports were final and no one would take responsible charge of the work.

Still others were under the impression that doing geoscience for a PE firm meant that no seal was required.

Geoscience

PG license renewals without C.E.

Checking a box that says you did it when you didn't.

In 2017, TBPG issued 20 violations for failure to obtain the appropriate continuing education credits.

Most renew their license online and check the box stating that they have obtained their C.E.s as required.

When audited, they cannot produce proof of C.E.

This usually results in not 1, but up to 4 separate violations, a fine of up to \$400, and public posting of the violation, as TBPG is required to post all violations on their webpage.

Geoscience

Withholding information from a regulatory agency

Your boss directs you NOT to send requested information that you clearly have.

TCEQ requests “all” data for a specific compliance issue.

Your boss directs you to write/send the response to the regulatory agency.

Your boss further directs you not to include certain pieces of information in your response.

What do you do?

Geoscience

Intentionally selecting inappropriate sample locations

Collecting soil samples that are likely not to show impacts

You review a Phase II ESA that shows no impacts and no further assessment recommended.

The site was a gas station for over 50 years.

When reviewing the Phase II, you discover that the sample locations and depths presented in the report do not match the sample depths on the lab report.

All soil samples were collected at 2' bgs and cannot possibly be representative of site conditions.

You reject the Phase II, but do you report the breach of ethics to TCEQ and the TBPG?

Rationales

“What I’m doing is not really illegal.”

“My behavior is in everyone’s best interests.”

“Nobody will ever find out what I’ve done.”

“The organization will protect me.”

Geoscience Ethics & the Professional Code of Conduct

TBPG Purpose



- Protect the health and safety of the people and the environment.

§851.101 Subchapter C. Code of Professional Conduct.



- Binding on all license holders.
- TBPG can impose sanctions.
- PGs, Authorized Official of a Firm (AOF) and GITs are responsible for understanding and complying with the Act, the TBPG rules and any other law or rule pertaining to the practice of professional geoscience.
- Does not define standards of care.

§851.102. Competence/Negligence

§851.103. Recklessness

§851.104. Dishonest Practice

§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. Professional Geoscientists Shall Maintain
Confidentiality of Clients

§851.112. Required Reports to the TBPG

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

Highlights Reel



§851.102. Competence/Negligence.



A PG or Firm shall[be] qualified by education and/or experience in the specific technical areas involved.

.....apply the technical knowledge and skill, which is ordinarily applied by reasonably prudent Professional Geoscientists practicing under similar circumstances and conditions.

Signing or sealing work you are unqualified for is incompetence.

§851.103. Recklessness.



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

- Includes conscious disregard of substantial risk , failure to comply with regs.....

§851.104. Dishonest Practice.



1. A PG, GIT or Firm shall not

- ❖ Defraud;
- ❖ Deceive; or
- ❖ Create a misleading impression.

Includes advertising, statements, or exaggerated claims.

2. A PG, GIT or Firm shall not directly or indirectly solicit, offer, give, or receive anything or any service of significant value...

§851.105. Conflicts of Interest.



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

- ❖ inform the client or employer in writing.
- ❖ Obtain client's written consent to continue the work
- ❖ Terminate either the work or the business association/financial 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

1. Knowingly participate.... in any plan...[to] violatethe Act or the rules of the TBPG;
2. Aid or abet unlicensed practice
- 3) Fail to prevent his/her partners, associates, shareholders, and employees from ... violate any provision of the TBPG or rules.

A PG shall be responsible and accountable for ...the use of his/her 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 AOF [has an] obligation 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:

1. Signed/Sealed documents & supporting documentation
2. Descriptions of offered geoscience services;
3. Billing, payment, and financial communications

A PG, GIT or Firm must 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 [with] 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:

- ❖ shall not use the title, "Professional Geoscientist" or the initials, "P.G." and shall not offer to or engage in the public practice of professional geoscience until after the PG's license has been properly renewed.

GITs cannot use "GIT" until properly renewed.

§851.108. Criminal Convictions.



- TBPG adheres to the Texas Occupation Code (TOC) Chapter 53 regarding criminal convictions and licensure....
- TBPG can suspend or revoke a license or deny licensure for convictions.
- Licenses are automatically revoked upon felony incarceration.
- Any license holder whose license has been revoked under the provisions of TOC 53 due to incarceration 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 PG's completion of a rehabilitation program approved by the DSHS.
- A PG's abuse of alcohol or a controlled substance may be deemed "Gross Incompetency"
- the TBPG may order an examination by one or more licensed health care providers that diagnosis or treatment of substance abuse.

§§851.110. Effect of Enforcement Proceedings on Application.



In accordance with § 1002.401 (b) of the Act, the 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.

§851.112. Required Reports to the TBPG.



- A PG, GIT or Firm shall make written reports to the TBPG office within thirty (30) days of the following:
 - ❖ Changes in firm's name, the AOF, the firm's owners, officers, or directors, PG(s) employed by the firm, PG(s) who serve as the P.G. in Responsible Charge for the firm or any branch offices, phone number(s) of the AOF or PGs.
 - ❖ Changes in a PG's or GIT's mailing address or other contact information and any changes in employment status with a firm
 - ❖ A criminal conviction (NOT a Class C misdemeanor traffic offense) of PG or GIT;
 - ❖ A civil settlement of or judgment 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 report as required is grounds for disciplinary action by the 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. ...
- The Board may deny a person's request for a license, registration certification, or renewal if the person has failed to timely pay an administrative penalty.
- When a person pays money to the TBPG, the TBPG may first apply that money to outstanding administrative penalties before applying it to any other fee or cost.

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TBPG Board Member since 2011