

AN ACT

1 Amending the act of May 23, 1945 (P.L.913, No.367), entitled, as
2 amended, "An act relating to and regulating the practice of
3 the profession of engineering, including civil engineering,
4 mechanical engineering, electrical engineering, mining
5 engineering and chemical engineering, the profession of land
6 surveying and the profession of geology and constituent parts
7 and combinations thereof as herein defined; providing for the
8 licensing and registration of persons practicing said
9 profession, and the certification of engineers-in-training
10 and surveyors-in-training, and the suspension and revocation
11 of said licenses, registrations and certifications for
12 violation of this act; prescribing the powers and duties of
13 the State Registration Board for Professional Engineers, Land
14 Surveyors and Geologists, the Department of State and the
15 courts; prescribing penalties; and repealing existing laws,"
16 further providing for definitions; and providing for peer
17 review and for lessons learned process.

18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 Section 1. Section 2 of the act of May 23, 1945 (P.L.913,
21 No.367), known as the Engineer, Land Surveyor and Geologist
22 Registration Law, is amended by adding subsections to read:

23 Section 2. Definitions.--As used in this act--

24 * * *

25 (u) "Lessons Learned Process" shall include an internal

1 meeting, class, publication in any medium, presentation, lecture
2 or other means of teaching and communicating, which is conducted
3 solely and exclusively by and with the employes, partners and
4 coworkers of a professional engineer, professional land surveyor
5 or professional geologist whose work is being evaluated, for the
6 purpose of learning best practices and reducing errors and
7 omissions in design documents and procedures. The term does not
8 include a presentation, lecture, teaching or communication made
9 to or by third parties who are not employes, partners or
10 coworkers of the licensee whose work is being evaluated and
11 discussed.

12 (v) "Peer Review" means a study, appraisal or review to
13 evaluate, maintain or monitor the quality and utilization of
14 engineering, land surveying or geological services, conducted by
15 a professional engineer, professional land surveyor or
16 professional geologist licensed under the laws of this
17 Commonwealth or another state who is not an employe, partner or
18 coworker of the licensee whose work is being reviewed.

19 Section 2. The act is amended by adding sections to read:

20 Section 11.3. Peer Review.-- (a) A peer review may only be
21 performed by one or more professional engineers, professional
22 land surveyors or professional geologists holding a current
23 license in any jurisdiction in the United States in the same
24 profession as would be required under this act to provide the
25 services being reviewed and who is appointed by a firm or
26 corporation under section 6 or by a licensee whose work is being
27 evaluated.

28 (b) An individual who conducts a peer review shall be immune
29 from civil liability arising from the peer review if the
30 individual acts in good faith and without malice and the

1 individual's action is reasonably related to the scope of
2 inquiry of the peer review. Immunity shall only apply to an
3 individual who:

4 (1) is not an employe, partner or coworker of the licensee
5 whose work is being evaluated; and

6 (2) has no other role in the services being reviewed apart
7 from performing the peer review.

8 (c) All documents related to the peer review, including
9 interviews, memoranda, proceedings, findings, deliberations,
10 reports and minutes, or the existence of the same, are subject
11 to discovery, subpoena or other means of legal compulsion for
12 their release to any person or entity and shall be admissible
13 into evidence in any judicial or administrative action.

14 Section 11.4. Lessons Learned Process.--(a) Except as
15 otherwise provided in this section, no individual who was in
16 attendance at or participated in any lessons learned process
17 shall be permitted or required to disclose any information
18 acquired in connection with or in the course of the process, or
19 to disclose any opinion, recommendation or evaluation made as
20 part of the process. Information otherwise discoverable or
21 admissible from an original source is not immune from discovery
22 or use in any proceeding merely because it was presented during
23 a lessons learned process, nor is an employe, partner or
24 coworker involved in a lessons learned process to be prevented
25 from testifying as to matters within such witness's personal
26 knowledge, but such witness may not be questioned about a
27 lessons learned process or about opinions formed as a result of
28 the process.

29 (b) The disclosure of any memorandum, proceeding, report or
30 minutes of a lessons learned process to any person or entity,

1 including a governmental agency, professional accrediting agency
2 or other licensee, whether proper or improper, shall not waive
3 or have any effect upon the confidentiality, nondiscoverability
4 or nonadmissibility of the information disclosed.

5 (c) Nothing in this section shall limit the authority of the
6 board to obtain, by subpoena or other authorized process,
7 information that is acquired by an individual in connection with
8 or in the course of a lessons learned process if the information
9 relates to matters and investigations within the board's
10 jurisdiction.

11 Section 3. This act shall take effect in 60 days.