

May 12, 2023

The Hon. Doug Downey
Attorney General
720 Bay Street, 11th Floor
Toronto, ON M7A 2S9

Re: Professional liability insurance regulations

Dear Attorney General Downey:

For more than a century, the Ontario Chamber of Commerce (OCC) has supported economic growth in Ontario by advocating for business priorities at Queen's Park on behalf of our 60,000 members, including local chambers of commerce and boards of trades in over 157 communities.

With feedback from our [Infrastructure Policy Council](#), we are writing to request the Ontario government's action on an important matter.

As you know, the practice of professional engineering carries significant public interest risks. Professional engineers have a duty to safeguard public welfare, and any failure in that duty 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.

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 against the consequences of negligence on the part of the entity providing the engineering services. Professional engineers may work to high standards, but human error and mistakes can still happen.

Unfortunately, there is an exception contained in the regulations under the Act (and first introduced with major Act revisions in 1984) which negates this 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 disclosure does not require the entity to identify or quantify the risks or consequences of uninsured engineering practice. As a result, the client is not providing informed consent and the risks are not managed or mitigated in any way.

This exception has created a significant amount of risk to the public interest. In 2018, the regulator (Professional Engineers Ontario) reported that of the 5,673 entities that were authorized to provide engineering services to the public, 1,290 of them – **more than 20 per cent** – were operating without professional liability insurance by relying on this exception. The risks of negligent professional engineering work are not borne by the project owner or client alone. They continue long after the work is completed and can seriously impact the welfare of many Ontarians.

While the exception was first introduced at a time when professional liability insurance was deemed prohibitively expensive for very small engineering firms, today, affordable professional liability insurance is available to firms of all sizes and should be viewed as a cost of doing business. No other regulated profession in Ontario allows its practitioners to offer and provide services at arm's length without insurance.

In short, we urge the Ontario government to repeal subsections 74(2)(d) and 74(3) from Regulation 941 under the Act to ensure all entities and practitioners offering professional engineering services to the public carry professional liability insurance to protect themselves, the public, and property.

We look forward to working with your government as it continues to help protect public safety and maintain the confidence of Ontarians in the work of professional engineering firms throughout the province.

Sincerely,



Rocco Rossi
President and CEO
Ontario Chamber of Commerce