



A&E Board Enforcement Actions

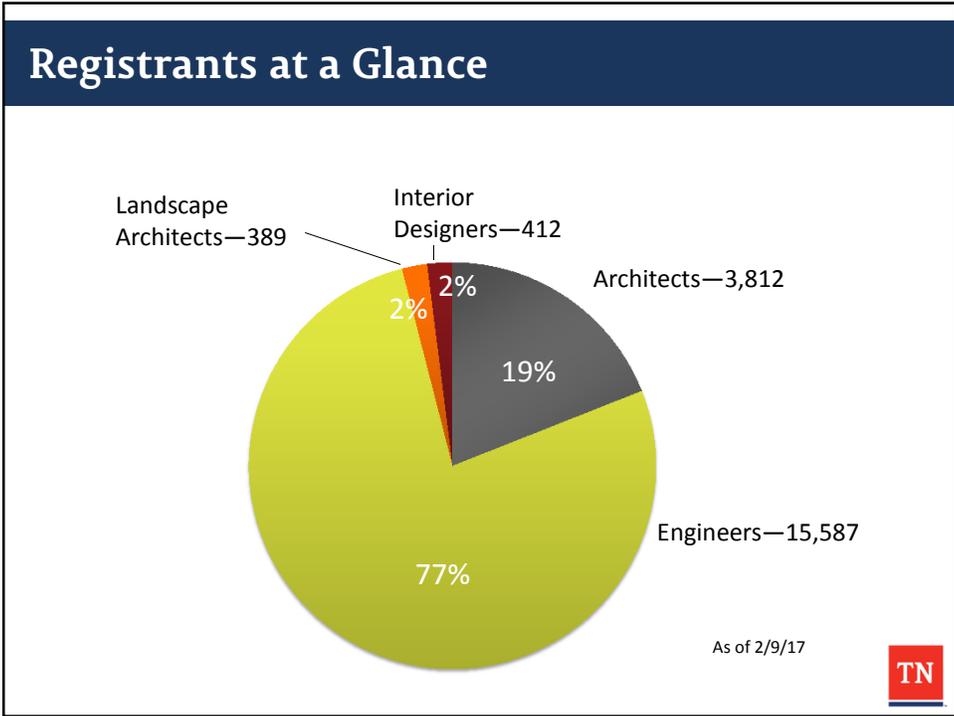
Board of Architectural & Engineering Examiners

John Cothron, Executive Director / March 1, 2017

Board History and Composition

- Created by General Assembly in 1921
 - Regulation of landscape architects began in 1972
 - Registration of interior designers began in 1994
- Board Composition:
 - Three (3) architects
 - Three (3) engineers
 - One (1) landscape architect
 - One (1) registered interior designer
 - One (1) public member
 - Three (3) non-voting associate engineer members





What do we do?

| | |
|---|--|
| License <ul style="list-style-type: none">• Education• Experience• Examination | Regulate <ul style="list-style-type: none">• Adoption of rules and policies |
| Communicate <ul style="list-style-type: none">• Website• Publications• Presentations | Enforce <ul style="list-style-type: none">• Disciplinary action |

What do we do?

**Protect the
Public**

TN

Rules of Professional Conduct

- Binding on all individuals and firms registered with the Board.
- Non-registrants are subject to the civil penalty provisions of the rules.

TN

Rules of Professional Conduct

THE "PRIME DIRECTIVE"

The registrant shall at all times recognize the primary obligation to protect the safety, health, and welfare of the public in the performance of the registrant's professional duties. [Rule 0120-02-.02(1) Proper Conduct of Practice]



Rules of Professional Conduct

- **Proper Conduct of Practice (0120-02-.02)**
 - Report knowledge of violations to the Board.
 - Maintain continuing education records.
 - Comply with QBS requirements for public projects.
- **Service in Areas of Competence (0120-02-.03)**
 - Perform services only in areas in which one is competent by education or experience.
 - Includes malpractice (recklessness, excessive errors, etc.) and disability (mental or physical).
- **Public Statements (0120-02-.04)**
 - Be completely objective and truthful in all professional reports, statements or testimony.

Rules of Professional Conduct

- **Conflicts of Interest** (0120-02-.05)
 - Strive to avoid conflicts of interest; if unavoidable, disclose circumstances in writing.
 - Do not solicit or accept gifts from suppliers for specifying their products.
 - When in public service, recuse yourself from actions with respect to services you or your firm provide.
- **Acceptance of Work** (0120-02-.06)
 - Do not falsify or misrepresent your qualifications.
- **Misconduct** (0120-02-.07)
 - Includes felony convictions or revocation, suspension or voluntary surrender of a license in another jurisdiction (or failure to notify the Board within 60 days of such actions).

Rules of Professional Conduct

- **Seals** (0120-02-.08)
 - Registrants may only seal documents prepared by them or prepared under their responsible charge.



The Complaint Process

- Complaints may be mailed or submitted online.
- May be initiated by any member of the public, registrants, staff, or other agencies.
- Anonymous complaints are discouraged, but are accepted if documentation supporting the allegation(s) is provided.
- Upon receipt, complaint is reviewed to determine if there is a possibility of imminent danger to the public health, safety or welfare. If so, complaint is forwarded directly to the Board's legal counsel.
- If not, a copy of complaint is sent to respondent asking for a response within 14 days.

The Complaint Process

- Complaint and response is forwarded to legal counsel for review, and a copy of response is sent to the complainant.
- If no response is received within 30 days, complaint is forwarded to legal counsel.
- Legal counsel may request an investigation.
- If technical expertise is required, case is sent to a Board member for review.
- An informal conference may be scheduled to interview respondent and other parties.
- Legal counsel presents findings to the Board.

The Complaint Process

- If Board votes to impose formal discipline, a consent order (settlement offer) is sent to the respondent.
- If consent order is not signed within 30 days, case is referred to litigation attorney.
- Formal charges are filed and a formal hearing is set.
- Case could be settled before the hearing by an agreed order.
- Formal hearing is held before an ALJ.
- Final order is issued imposing discipline.
- All formal disciplinary actions are posted on Board website, published in newsletter, and reported to national councils (NCARB, NCEES, CLARB).

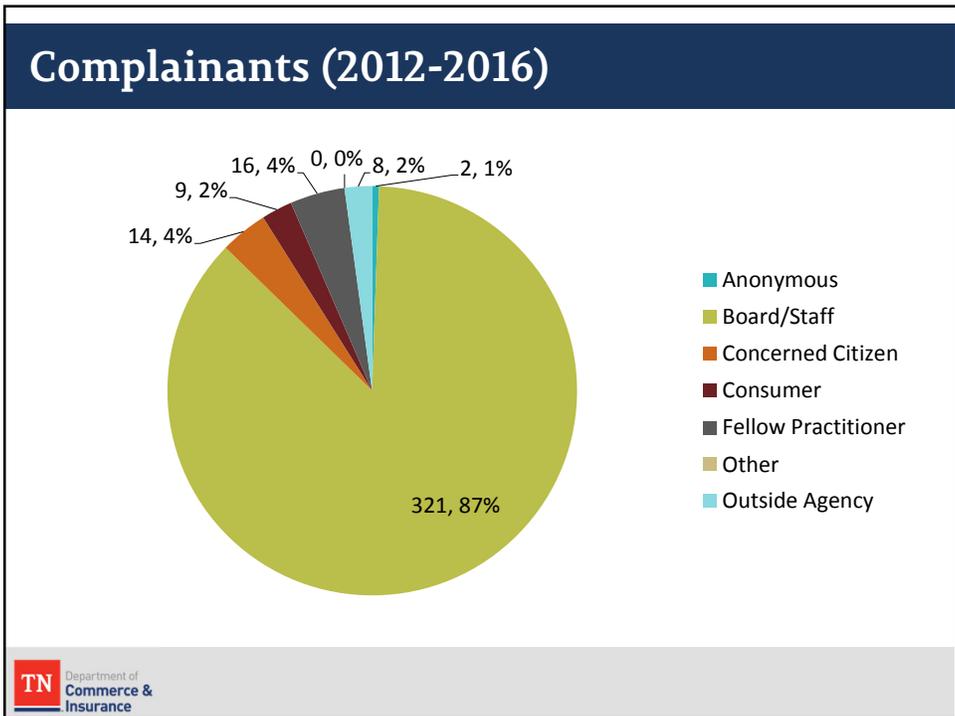
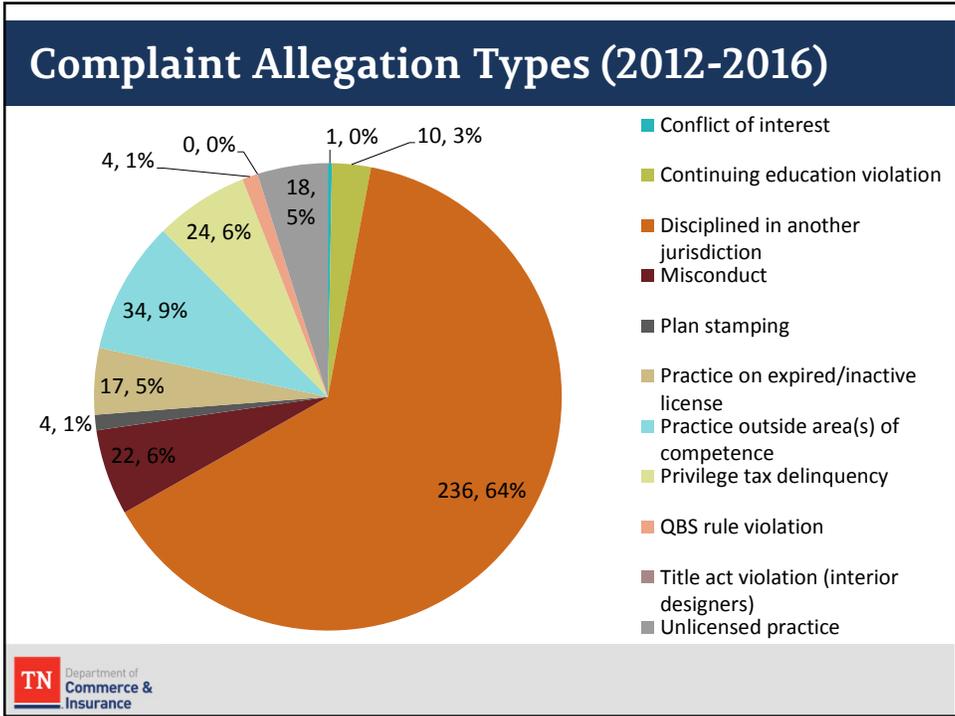
Enforcement Actions

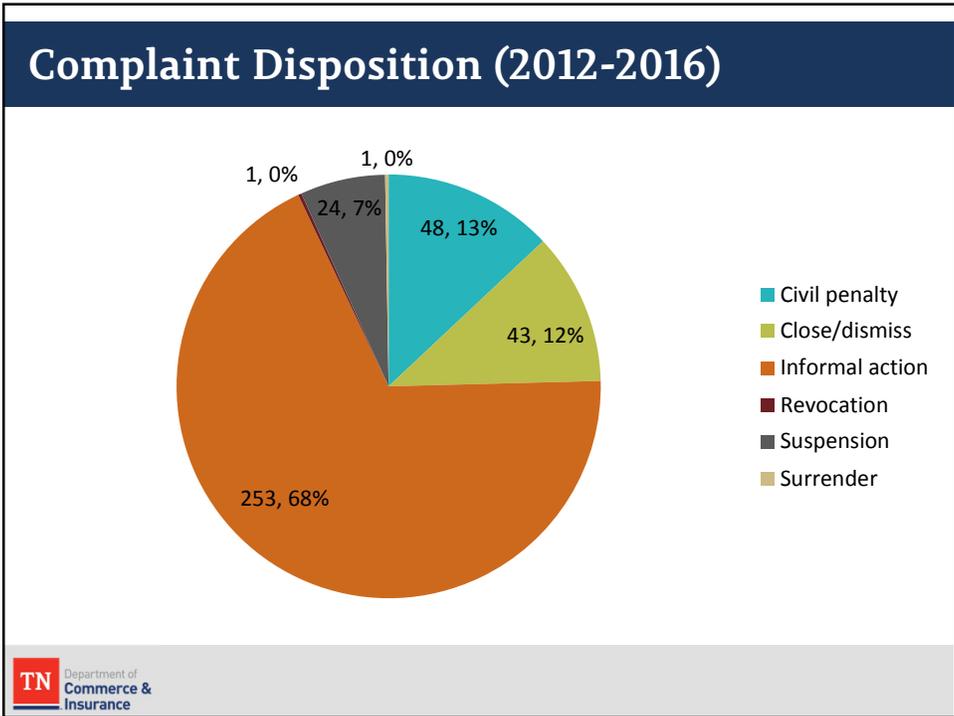
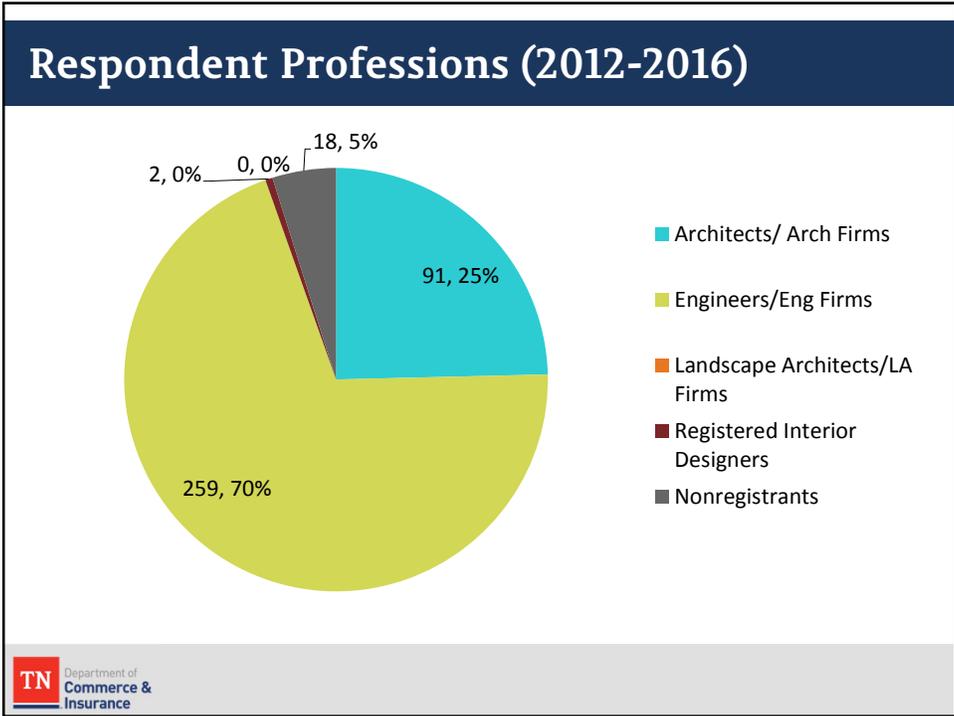
The Board averages about 70 complaints a year.

Types of Discipline:

- Informal action (Letter of Caution, Warning, etc.)
- Formal action
 - Civil penalty
 - Law and rules exam
 - Continuing education
 - Probation
 - Suspension
 - Revocation







Case Study #1

Martin v. Sizemore

Allegation: Practice outside area(s) of competence.

- Architect (William C. Martin) sealed the structural, mechanical, plumbing, and electrical plans for 4 projects, one of which collapsed during construction.
- A formal hearing was conducted in 1994, and the Board ordered a 3-year suspension, followed by a 1-year probation.
- The decision was appealed to the Davidson County Chancery Court, which ultimately reversed the suspension (although Martin's license was suspended for about 3 months).



Case Study #1

Martin v. Sizemore

- Board appealed to the TN Court of Appeals, which remanded the case to the Board for further proceedings.
- The courts ruled that the Board's decision was based on inadequate evidence since no expert testimony was provided substantiating the allegations.
- **Based on this decision, experts must testify at all hearings involving competency to determine if the actions fall below the professional standard of care.**
- The case was closed in 2005 with an agreed order stating that respondent would not be subject to any further discipline in connection with this case.



Case Study #2

Allegation: Practice outside area(s) of competence.

- Architect sealed the structural and mechanical plans for 5 projects.
- Architect had been previously disciplined for similar violations.
- A formal hearing was conducted in 2015, and three experts (an architect, structural engineer, and mechanical engineer) testified.
- The Board ordered payment of a \$5,000 civil penalty and \$6,000 in hearing costs.



Contact Us



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