

The Professional and Ethics

Thank you for devoting your time and hopefully your thoughts and opinions to this topic. Professional conduct and ethics contain some of the most difficult moral decisions we most confront in the daily practice of our profession. A sound understanding of this subject and how completely we integrate these principals into our professional characters will play a critical part in our personal practice and in the health and growth of surveying now and in the future.

Fifty years ago Curtis Brown offered the following on being a professional;

“Professional stature is not gained by self proclamation. Professional stature must be earned and can only be measured by what others think of us. If you want to find out whether you are a professional man, ask what others think, don’t ask yourself. If you want to be a professional man, earn that right.”

Brown, Curtis M., *The Professional Status of Land Surveyors*, 1961

With such sage advice given so long ago by one of our most honored and read colleagues, have we done all we can or should to conduct ourselves in an ethical manner as professionals? Do our clients and those we collaborate with recognize our professional standing in our practice and our actions? Based on how often we opine about how we are perceived and treated I suspect we may not pass Mr. Brown’s test as universally as we would hope. This is by no means a circumstance unique to this region. It is not due to a lack of effort on the part of the members of the profession we know and respect or the efforts of our exemplary professional organizations. Across the country I have been privileged to meet and interact with surveyors of outstanding professional and personal character. If the world around sees our commitment to the practice of the ideals we are about to discuss, the professional status of surveying would not be a question. Are we prepared to commit to the pursuit of higher standards?

We are all aware that surveying is a dynamic and diverse profession. How the technical practice and scope of the surveying is defined is different from jurisdiction to jurisdiction. During my years in this profession, the definition and standards for surveying in Connecticut have been changed several times. I know many other states have seen similar changes. These changes have been driven by a seemingly constant technical refinement in surveying equipment and techniques. We also know that to be a professional a surveyor must not only possess a high level of technical expertise and competence, but must also practice under standards of professional conduct and ethical principles. Unlike the constant refinement and change of technical standards, what the surveying community has recognized as its professional standards of conduct and how we define our ethical responsibilities have remained remarkably consistent across both time and borders.

As professionals it is our duty to know and understand these responsibilities. These principals should be second nature to each of us. The difficult part is applying definition to rules that are subjective and open to interpretation. The goal is not to simply “do the right thing,” the goal is to BE a professional to the best of our capabilities. It should be our professional commitment to enhance our knowledge and our understanding of these tenets. Go beyond the letter of what is expected of you, refine your practice continually and strive to raise your standards.

What are some of the commonly recognized attributes of a profession?

The possession and use of expert or specialized knowledge,

Although this is typically understood to imply higher education, this attribute, regardless of the profession, does not speak specifically to how the knowledge is attained, merely that it is of a higher level than that possessed by laypersons.

Service to the public and the profession,

A profession shares its knowledge and expertise with the public, through service on boards or commissions for example. Being a professional also includes service to the profession, through mentoring, publishing learned articles, taking an active role in the professional society, for example.

The exercise of autonomous thought and judgment,

The pursuit and possession of specialized knowledge alone will not make one a professional, a professional must be able to independently apply that knowledge to a wide array of circumstances. We are advocates for our clients and at the same time we must be impartial.

Providing services to those unable to pay,

Unlike doctors, lawyers and clergy, the so called higher professions, professions like surveying, architecture, etc. are not morally bound to provide services to those unable to pay. A survey or design is rarely if ever a necessity and can wait until the client can pay for it. Professions like surveying are however morally bound to protect the rights others not only those of their clients. For instance, the surveyor’s duty does not end with the rights of our clients; we must protect the rights of adjoining owners as well.

Fees are based on knowledge rather than labor or product,

A professional’s fees are based upon the reasoned application of specialized knowledge. In the generic sense our product is the intellectual result of the application of knowledge and expertise to the specific circumstance involved in a given project. Many of our clients and the public in general believe the “map or plan” is our product, the map or plan is simply a report of the intellectual process. Whenever services are procured and provided based on lowest prices the profession has been reduced to a business. Fees for professional services should reflect the knowledge and expertise needed to complete the project while being fairly balanced by the value they provide to the client.

Ethics,

Ethics are the principals we use to establish our standards of right and wrong. Professionally ethics are the duties members of a profession owe to the public, to their colleagues, to allied professions and to their clients. In the absence of ethical conduct there can be no profession. With the possible exception of politicians, all professions have codes or standards to guide professional behavior.

Throughout history, mankind has looked to religion and philosophy for guidance in conduct of our daily lives. Professions are guided by ethical codes or standards of professional conduct. Although these standards are not identical from profession to profession, the core directions are remarkably similar. Bushido, the Samurai Way of the Warrior is an ethical code. Taken on its face it could be a code for any profession. The Seven Virtues of Bushido, rectitude or right action, courage, benevolence, respect, truthfulness, honor and loyalty could easily be assimilated with any of the ethical codes used by modern surveyors.

Thomas Jefferson, Surveyor and President, said the following about ethics;

“I have but one system of ethics for men and for nations – to be grateful, to be faithful to all engagements under all circumstances, to be open and generous, promoting in the long run even the interests of both; and I am sure it promotes their happening.”

This statement, simple in principal and content, distills much of what is contained in any of the codes. It is Jefferson’s direction to instill these qualities into your professional character.

What are the surveyor’s ethical responsibilities?

Around the world, across state and national borders surveying is a regulated profession. Most jurisdictions have technical standards of practice. Around the globe surveying is also subject to standards of professional practice or ethics, either through laws or regulations or by standards promulgated by professional societies. Nations as diverse as Canada, Jamaica, Israel and Papua New Guinea all maintain Codes of Ethics for surveying. The International Federation of Surveyors has adopted a “Statement of Ethical Principles and a Model Code of Professional Conduct”. The professional in Mansfield Center, CT and the professional in Kingston, Jamaica recognize basically the same fundamental ethical principals.

Ethical standards should be as much a part of who we are and how we practice, as the technical standards of practice are. Let us look at the National Society of Professional Surveyors, Surveyors Creed and Canons and the States of Connecticut, Maine and New Hampshire Code of Ethics, which provide guidance and regulation of these fundamental ethical principals for surveyors in general and New Hampshire specifically;

The National Society of Professional Surveyors, Surveyors Creed and Canons;

As a Professional Surveyor, I dedicate my professional knowledge and skills to the advancement and betterment of human welfare.

I pledge:

To give the utmost of performance;

To participate in none but honest enterprise:

To live and work according to the laws of humankind and the highest standards of professional conduct;

To place service before profit, honor and standing of the profession before personal advantage, and the public welfare above all other considerations;

In humility and with need for Divine Guidance, I make this pledge.

Canon 1. A Professional Surveyor should refrain from conduct detrimental to the public.

Canon 2. A Professional Surveyor should abide by the rules and regulations pertaining to the practice of surveying within the licensing jurisdiction.

Canon 3. A Professional Surveyor should accept assignments only in one's area of professional competence and expertise.

Canon 4. A Professional Surveyor should develop and communicate a professional analysis and opinion without bias or personal interest.

Canon 5. A Professional Surveyor should maintain the confidential nature of the surveyor-client relationship.

Canon 6. A Professional Surveyor should use care to avoid advertising or solicitation that is misleading or otherwise contrary to the public interest.

Canon 7. A Professional Surveyor should maintain professional integrity when dealing with members of other professions.

The following Professional Standards contained in;

The following; **Code of Ethics is the Regulation Adopted by the Connecticut Professional Engineer and Land Surveyor Licensing Board**

Sec. 20-300-12. Code of Ethics

(a)The Board adopts the following rules of professional conduct as the Code of Ethics for professional engineers and land surveyors.

In order to establish and maintain a high standard of integrity, skills and practice in the profession of engineering and land surveying and to safeguard the life, health, property, and welfare of the public, the following rules of professional conduct are promulgated and shall be binding upon every person holding a license as a professional engineer or land surveyor and on all partnerships or corporations or other legal entities authorized to offer or perform engineering and/or land surveying services in Connecticut.

The rules of professional conduct as promulgated herein are an exercise of the police power vested in the board by virtue of the acts of the legislature, and as such, the board is authorized to establish conduct, policy, and practices in accordance with the powers hereinabove stated.

All persons licensed under the provisions of Chapter 391 of the general statutes of Connecticut are charged with having knowledge of the existence of these rules of professional conduct, and shall be deemed to be familiar with their several provisions and to understand them. Such knowledge shall encompass the understand that the practice of engineering and land surveying is a privilege, as opposed to a right, and the licensee shall be forthright and candid in his or her statements or written response to the board or its representatives on matters pertaining to professional conduct.

(1) The engineer or land surveyor shall at all times recognize his or her primary obligation to protect the safety, health, and welfare of the public in the performance of his or her professional duties. If his or her professional judgment is overruled under circumstances where the safety, health and welfare of the public are endangered, he or she shall inform his or her employer of the possible consequences and notify such other proper authority of the situation, as may be appropriate.

(2) The engineer or land surveyor shall undertake to perform engineering or land surveying assignments only when qualified by education or experience in the specific technical field of professional engineering or land surveying involved.

(3) The engineer or land surveyor may accept an assignment requiring education or experience outside of his or her own field of competence, but only to the extent that such services are restricted to those phases of the project in which he or she is

qualified. All other phases of such project shall be performed by qualified associates, consultants or employees.

(4) The engineer or land surveyor shall not affix his or her seal to any plan, map, survey, sketch, drawing, specification, or other document not prepared personally or under his or her supervisory control.

A licensee may seal, or sign and seal, documents not prepared by the licensee or by an employee under the licensee's supervisory control, provided the licensee shall prepare, and retain for a period of not less than six years, a thorough written evaluation of the professional services represented by the documents, including but not limited to, drawings, specifications, reports, design calculations and references to applicable codes and standards. Such written evaluation shall clearly identify the project and the documents to which it relates, the sources of the documents and the name of the person or organization for which the written evaluation was conducted and the date of the evaluation; and the seal and signature of the licensee shall also be affixed thereto.

(5) The engineer or land surveyor shall be completely objective and truthful in all professional reports, plans, maps, surveys, sketches, drawings, specifications, other documents, statements, or testimony. He or she shall include all relevant and pertinent information in such reports, plans, maps, surveys, sketches, drawings, specifications, other documents, statements, or testimony.

(6) The engineer or land surveyor when serving as an expert or technical witness before any court, commission, or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of his or her testimony.

(7) The engineer or land surveyor shall issue no statement, criticisms, or arguments on engineering or land surveying matters connected with public policy which are inspired or paid for by an interested party, or parties, unless he or she has prefaced such comment by explicitly identifying himself or herself by disclosing the identities of the party or parties on whose behalf he or she is speaking, and by revealing the existence of any pecuniary interest he or she may have in the matter.

(8) The engineer or land surveyor shall conscientiously avoid conflicts of interest with his or her employer or client, but, when unavoidable, the engineer or land surveyor shall forthwith disclose the circumstances to his or her employer or client. The engineer or land surveyor shall not review or influence the decision of his or her own or his or her firm's work for any public body on which he or she may serve.

(9) The engineer or land surveyor shall avoid all known conflicts of interest with his or her employer or client and shall promptly inform his or her employer or client of any business association, interest, or circumstances which could influence

his or her judgment or the quality of his or her services.

(10) The engineer or land surveyor shall not accept compensation, financial or otherwise, from more than one party for services on the same project, unless the circumstances are fully disclosed to, and agreed to, by all interested parties. The engineer or land surveyor shall not permit any person to share in the fees for professional services, other than: A partner, employee, associate in a professional firm or corporation, subcontractor or consultant. This prohibition shall include any arrangement or agreement whereby the amount received in payment for furnishing professional services, personnel services, space, facilities, or equipment used by a professional licensee constitutes a percentage of, or is otherwise dependent upon, the income or receipts of the licensee from such practice.

(11) The engineer or land surveyor shall not solicit or accept financial or other valuable consideration from material or equipment suppliers for specifying his or her product.

(12) The engineer or land surveyor shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with his or her client or employer in connection with work for which he or she is responsible.

(13) The engineer or land surveyor shall not solicit or accept an engineering or land surveying contract from a governmental body on which the principal or officer of his or her organization serves as a member. He or she shall not participate as a member, advisor or employee of a governmental body in those actions or deliberations which pertain to services provided to the governmental body by the practitioner or his or her organization.

(14) The engineer or land surveyor shall not offer to pay, agree to pay, conspire to pay, or pay either directly or indirectly, any commission, political contribution or gift, or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies.

(15) The engineer or land surveyor shall not falsify or permit misrepresentation of his or her, or his or her associates', academic or professional qualifications. He or she shall not misrepresent or exaggerate his or her degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or this or their past accomplishments with the intent and purpose of enhancing his or her qualifications and work.

(16) The engineer or land surveyor shall not knowingly associate with or permit the use of his or her name or firm name in a business venture by any person or firm which he or she knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature.

(17) If the engineer or land surveyor has knowledge or reason to believe that another person or firm may be in violation of any of these provisions, he or she shall present such information to the board in writing, as specified in section 20-300-14a, and shall cooperate with the board in furnishing such further information or assistance as may be required by the board.
(Effective August 23, 1994)

02 Maine Department of Professional and Financial Regulation, 360 Board of Licensure for Professional Land Surveyors, Chapter 90: Standards of Practice;

Part 1. Professional Standards

The Licensee's Responsibility to Society

A licensee shall:

- (1) Inform the licensee's employer, client or such other authority as may be appropriate when the licensee's professional judgment is overruled in judicial proceedings.
- (2) Prepare reports and testimony and make statements that are truthful and based upon independent professional judgment.
- (3) Express professional opinions only when based upon a thorough knowledge of the facts and a careful evaluation of the subject.
- (4) Issue no criticisms or arguments on technical matters that are inspired or paid for by interested parties, unless the licensee explicitly identifies the interested parties on whose behalf the licensee is speaking, and reveals any interest such parties have in the matters.
- (5) Prohibit use of the licensee's own or firm names by, and business associations with, any person or firm which the licensee knows or should know is engaging in fraudulent or dishonest business or professional practices.

The Licensee's Obligations to Employers and Clients

- (1) A licensee shall undertake assignments only when qualified by education or experience in the specific technical fields of surveying involved.
- (2) A licensee shall not sign or seal any plans or documents dealing with subject matter in which the licensee lacks competence, or any plan or document not prepared under the licensee's direct control and personal supervision. A licensee may, however, sign and seal one or more aspects of an overall project, provided that the aspect for which the licensee assumes responsibility is clearly stated on the plan or document.

- (3) A licensee shall not reveal information which has been designated as confidential by the client or employer without prior informed written consent of the client or employer, except as authorized or required by law.
- (4) A licensee shall make full written disclosures to the licensee's employer prior to the client of potential conflicts of interest or other circumstances which could influence or appear to influence the licensee's judgment or the quality of the licensee's service. Disclosure shall be promptly made once the licensee learns or by the exercise of reasonable diligence should have learned of the conflict of interest or other circumstances.
- (5) A licensee shall not accept compensation, financial or otherwise, simultaneously from more than one party for the same services, unless the circumstances are fully disclosed in writing to all interested parties.
- (6) A licensee serving as a member, advisor, or employee of a governmental body shall not participate in decisions by the governmental body with respect to professional services offered or provided by the licensee or any person or firm associated with the licensee to the governmental body.

02 NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

BOARD OF LICENSURE FOR LAND SURVEYORS

CHAPTER Lan 500 ETHICAL STANDARDS

PART Lan 501 CODE OF ETHICS

Lan 501.01 Purpose and Scope.

(a) To establish and maintain a high standard of integrity, skills and practice in the profession of land surveying, the following rules of professional conduct are adopted in accordance with RSA 310-A, and shall be binding upon every person holding a land surveyor's license.

Lan 501.02 Obligation to Obey.

(a) The ethical standards set forth in this part shall bind all licensees, and violation of any such standard shall result in disciplinary sanction.

(b) All persons licensed under RSA 310-A shall be considered to have knowledge of the existence of these rules of professional conduct and to be familiar with their several provisions. Such knowledge shall encompass the understanding that the practice of land surveying is a privilege, as opposed to a right, and the licensed land surveyor shall

be required to be forthright and candid in his or her statements or written response to the board or its representatives on matters pertaining to professional conduct.

Lan 501.03 Standards of Conduct.

(a) The licensee shall:

(1) Undertake only work for which the licensee is qualified by education and experience; and

(2) When serving as an expert or technical witness on behalf of a party before any court, commission, or other tribunal, shall in direct testimony only express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of the testimony.

(b) The licensee shall clearly identify himself or herself, his or her employer, and in whose interest he or she is working and:

(1) Disclose fully to the client any financial or purchase interest the licensee or the licensee's employer has in the land on which he or she is working;

(2) Conscientiously avoid conflicts of interest or even the appearance of such conflicts; and

(3) If, despite precaution, a conflict of interest is discovered, he or she shall:

(a) Promptly and fully disclose the conflict of interest to the client/employer; and

(b) Act immediately to resolve the conflict.

(c) The licensee shall not knowingly issue a false statement or false information.

(d) The licensee shall advertise only in a truthful manner, stating the services the licensee is qualified and prepared to perform.

(e) The licensee shall not falsify or permit misrepresentation of the licensee's or the licensee's associates', academic or professional qualifications.

(f) With respect to misrepresentation, the licensee shall not:

(1) Misrepresent or exaggerate the licensee's degree of responsibility in, or for the subject matter of prior assignments; or

(2) Misrepresent pertinent facts in brochures or other presentations incident to the solicitation of employment concerning employers, employees, associates, joint ventures, or the licensee or their past accomplishments with the intent and purpose of enhancing the licensee's qualifications and work.

(g) The licensee shall issue no statements, criticisms, or arguments on land surveying matters which are inspired or paid for by an interested party, or parties, unless such comments are prefaced by explicit identification of the licensee and by disclosing the identities of the party or parties on whose behalf the licensee is speaking.

(h) The licensee shall not attempt to injure by false statement or dishonest action either directly or indirectly, the professional reputation, prospects, or business of another.

(i) The licensee shall be objective and truthful in all professional reports, statements or testimony. The licensee shall include only relevant and pertinent information in such reports, statements, or testimony.

(j) The licensee shall:

(1) Offer a written contract to the client; and

(2) When utilizing a written contract specify the following:

a. The land upon which the work will be performed;

b. The nature and scope of the work to be performed;

c. The estimated time period within which the work is to be performed; and

d. A cost estimate or fee schedule.

(3) Not accept compensation or expenses from more than one employer, client for the same service, unless the parties involved are informed and consent;

(4) Not accept work on a contingent fee basis;

(5) Not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with the licensee's client in connection with the work for which the licensee is responsible;

(6) Recognize that the practice of land surveying by a person, firm, co-partnership, corporation or joint stock association construed to practice or offer to practice land surveying shall be under the direct charge and supervision of a land surveyor licensed by the State of New Hampshire; and

(7) Advise the client of the level of precision most appropriate to the purposes of the survey.

(k) The licensee shall:

(1) At all times in the performance of services, abide by applicable federal, state and municipal laws and regulations;

(2) Unless the circumstances are fully disclosed to all parties, not solicit or accept a land surveying contract from a government body on which a principal or officer of the licensee's organization serves as a member;

(3) Not contract for the completion of another licensee's contracted work unless reasonable effort has been made to consult with the prior licensee;

(4) Cooperate with other licensed land surveyors with an interchange of information, in particular, where discrepancies are discovered, where such interchange does not include confidential information; and

(5) Not perform any acts, allow omissions or make any assertions or representations which are fraudulent, deceitful, or misleading, or which in any manner tend to create misleading impression; and

(l) The licensee shall:

(1) Cooperate with investigations and requests for information from the board and the board's representatives;

(2) Present information to the board of licensure for land surveyors for action, if the licensee has evidence of unprofessional conduct of another land surveyor provided that the licensee believes that such misconduct is occurring;

(3) Submit only truthful and correct information in any application or other document filed with or statement made to the board;

(4) Inform the board of a principal business/home address to which all official board communications should be directed, and also of all addresses where he/she is practicing land surveying or has a branch office;

(5) Report to the board the establishment of a business/home address or the change or abandonment of a business/home address within 30 days; and

(6) Not engage in or participate in professional or business practices of a fraudulent or dishonest nature.

(m) The licensee shall not:

(1) Sell nor permit the use of his/her seal to anyone, recognizing that the seal indicates the licensee's personal responsibility for the work bearing the licensee's seal;

(2) Affix a signature and/or seal to any map or document dealing with subject matter in which the licensee lacks competence by virtue of education and/or experience; and

(3) Affix the licensee's signature and/or seal to any plans or document not prepared by the licensee or by an employee, or a surveyor-in-training under the

licensee's direct supervisory control, except historical documents pursuant to RSA 678:18, II.

(n) The licensee shall with respect to supervision of an employee or surveyor-in-training:

(1) Have direct involvement and thorough supervision of the entire survey process; and

(2) Supervise the work being performed during each phase of work performed from project conception through final project conclusion.

Bertrand Russell said,

“An ethical person ought to do more than he is required to do and less than he is allowed to do.”

Inherent in all of this, quotes and codes alike, is the rather basic premise, do the right thing. This is simple to say not always simple to achieve. I urge all professionals to review their ethical standards on a regular basis. Seek out and examine standards from other jurisdictions and other professions. Discuss these obligations with your colleagues. Surveyors should not only meet the obligation to follow the standards applicable to our profession and jurisdiction, but to explore ways to improve and refine these standards. I offer several examples of Ethics Codes from various locales. Not for review in this forum but for your personal reflection. Whenever a professional society meets there should be discourse on enhancing the profession's character. To meet Curt Brown's standard of a profession in the opening quote; surveyors should continually strive to maintain a high moral standard and to improve the ethical being of the surveying community and the manner in which we present our profession and ourselves to the world around us.

Thank you for your attention and interest. Please do not hesitate to share your thoughts, opinions, information or questions regarding this topic or any other topic relating to professional land surveying.

Presented by Robert Dahn, CT LLS
bdahn@mehangoodin.com

250 CMR 5.00: Professional Practice

By the [Division of Professional Licensure](#)

- 5.01: [Scope of Practice](#)
 - 5.02: [Professional Conduct](#)
 - 5.03: [Professional Seal](#)
 - 5.04: [Direct Charge and Supervision](#)
 - 5.05: [Business Entities](#)
 - 5.06: [License Renewal](#)
 - 5.07: [Reinstatement of Lapsed License](#)
 - 5.08: [Use of Title Engineer or Land Surveyor](#)
 - 5.09: [Professional and Moral Character](#)
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5.01: Scope of Practice

All engineering work and all land surveying work is considered work of a professional nature and shall be performed in conformance with 250 CMR unless such work falls within an exemption set forth in M.G.L. c. 112, § 81R. Consistent with M.G.L. c. 112, § 81D, 250 CMR 5.00 does not apply to work performed by persons who operate, maintain or install machinery or equipment, or to persons licensed as engineers under M.G.L. c. 146.

(1) Engineering work may be performed only by a Professional Engineer or under the Direct Charge and Supervision of a Professional Engineer as described in 250 CMR 5.04.

(2) Land surveying work may be performed only by Professional Land Surveyor or under the Direct Charge and Supervision of a Professional Land Surveyor as described in 250 CMR 5.04.

(a) A Professional Engineer qualified in the Branch of civil engineering may also perform land surveying incidental to his or her engineering work relative to locating or relocating any of the Fixed?works embraced within the practice of civil engineering, but excluding the determination of property lines.

(b) The delineation of existing or proposed structures, features or Boundaries relative to property lines requires the determination of property lines and therefore must be performed by a Professional Land Surveyor.

(3) Engineering Registrants must restrict engineering practice to areas of competence based upon their education and experience qualifications.

(4) Land Surveying Registrants must restrict land surveying practice to areas of competence based upon their education and experience qualifications.

5.02: Professional Conduct

Each Professional Engineer and Professional Land Surveyor has an ethical duty to the public, the profession, and his or her clients.

In order to protect the health, property, and welfare of the public and to establish and maintain a high standard of integrity and practice in the professions of engineering and land surveying, the following Rules of Professional Conduct and all other applicable provisions of 250 CMR shall be binding on every Professional Engineer and Professional Land Surveyor. Failure to comply with 250 CMR, including the rules of professional responsibility in 250 CMR 5.02(1) through (5), or M.G.L. c. 112, §§ 61 through 65E and §§ 81D through 81T may constitute grounds for disciplinary action against the Registrant.

(1) Responsibility. A Registrant shall hold paramount the health, property and welfare of the public in the performance of the Registrant's professional duties.

(a) If the professional judgment of any Registrant is overruled under circumstances where the health, property or welfare of the public may be endangered, that Registrant shall notify the Registrant's employer, client or such other authority as may be appropriate.

(b) A Registrant shall provide professional services that are truthful, based upon independent professional judgment, founded upon adequate knowledge of the issues, and based upon competence in the subject matter.

(c) A Registrant shall approve, sign or seal only those Instruments of Service that conform to 250 CMR and generally accepted engineering and land surveying standards.

(d) A Registrant shall not reveal facts, data or information obtained in a professional capacity, without the prior consent of the Registrant's employer except as authorized or required by law or regulation.

(e) A Registrant shall not permit the use of the Registrant's name or firm name nor associate in business ventures with any person or firm which the Registrant may have reason to believe is engaging in fraudulent or dishonest business or professional practices.

(f) A Registrant shall provide the Board with any information and assistance the Board may deem necessary for the investigation/prosecution of complaints filed with the Board.

(g) A Registrant shall provide the Board with honest and objective responses on Reference Questionnaires regarding an applicant's qualifications for registration.

(h) A Registrant shall provide written notification to other Registrants in the event of substantial disagreement with the work of the other. When appropriate, both Registrants shall investigate and attempt to resolve the disagreement collaboratively. The notified Registrant is required to respond in a timely manner to the Registrant giving notice.

(i) A Registrant shall not act in a manner or engage in a practice that brings discredit on the honor or dignity of the profession of engineering or land surveying.

(2) Competency.

(a) A Registrant shall practice only in areas of competence for which the Registrant is qualified by education and experience.

(b) A Registrant may accept work outside of his or her Licensed Branch of practice only to the extent that such services are restricted to areas of expertise for which the Registrant is qualified by education and experience to perform.

(c) A Registrant shall not take responsibility for work the Registrant is not competent by education or experience to perform, even if such work generally falls within a Branch in which said Registrant is registered.

(d) In the event that a Registrant practices outside his or her Licensed Branch of practice, the Registrant must be prepared to demonstrate to the Board's satisfaction his or her competence in that additional Branch of practice. Demonstration of competence to the Board shall include at a minimum records of specific education and experience obtained by the Registrant in that additional Branch of practice.

(e) A Registrant may affix the Registrant's Signature or seal only on Instruments of Service prepared by the Registrant or prepared under the Registrant's Direct Charge and Supervision.

(f) A Registrant shall stay current with theoretical, technological and practical developments within the Registrant's profession and maintain personal competency for acceptable practice throughout the Registrant's career.

(3) Public Statements. A Registrant shall issue public statements only in an objective and truthful manner.

(a) A Registrant shall issue no professional testimony that is inspired or paid for by interested parties unless the Registrant explicitly identifies the interested parties on whose behalf the Registrant is speaking and reveals any interest such parties have in the matters.

(b) A Registrant shall not attempt to injure, maliciously or falsely, the professional reputation, prospects, practice, or employment of other Registrants.

(4) Conflicts of Interest. A Registrant shall act professionally for each employer or client as a faithful agent and shall avoid conflicts of interest, or the appearance of conflicts of interests.

(a) A Registrant shall make full prior disclosures to the Registrant's employers or clients of potential conflicts of interest or other circumstances which could influence or appear to influence the Registrant's judgment or the quality of their services. The Registrant bears responsibility for maintaining documentation of compliance with this requirement.

(b) A Registrant shall not accept compensation, financial or otherwise, from more than one party for concurrent services on the same project unless the circumstances are fully disclosed in writing to all interested parties.

(c) A Registrant shall not solicit or accept compensation, financial or otherwise, directly or indirectly, from contractors, vendors or other parties in connection with work for employers or clients for which the Registrant is responsible.

(5) Solicitation and Compensation. A Registrant shall avoid improper solicitation of professional employment.

(a) A Registrant shall not falsify or permit misrepresentation of the Registrant's own academic or professional qualifications, or those of the Registrant's associates.

(b) A Registrant may be disciplined for being found in violation of the state ethics law by the State Ethics Commission.

(c) A Registrant may request, propose or accept contracts for professional services on a contingent basis only under circumstances in which the Registrant's professional judgment would not be compromised and the contingency agreement is in writing and complies with 250 CMR 5.02(5)(e).

(d) Regardless of the negotiated compensation, the Registrant must provide services that comply with accepted professional standards.

(e) A Registrant shall establish clear and unambiguous contractual arrangements with clients. At a minimum, contractual arrangements must state a description of the proposed work, fees and expenses to be paid, and schedule for completion.

[Top](#)

5.03: Professional Seal

(1) Format.

(a) Each person registered as a Professional Engineer in the Commonwealth shall use a professional seal that conforms to the designs approved and made available by the Board. The seal shall contain the following words: "Commonwealth of Massachusetts", the Registrant's name, the Registrant's registration number, and the words "Professional Engineer" and may include one's Licensed Branch.

(b) Each person registered as a Professional Land Surveyor in the Commonwealth shall use a professional seal that conforms to the designs approved and made available by the Board. The seal shall contain the following words: A Commonwealth of Massachusetts@, the Registrant's name, the Registrant's registration number, and the words A Professional Land Surveyor@.

(2) The seal must be a symbol or image in the form of a rubber stamp, embossed seal or digitized seal (computer generated image), or other form approved by the Board. The outside diameter of the depicted image must be approximately one and one half inches.

(3) A Registrant shall affix his or her seal only to Instruments of Service produced by the Registrant personally or under the Registrant's Direct Charge and Supervision, except as provided in 250 CMR 5.03(4).

(4) A Registrant may review and adopt work started by or under another Registrant's Direct Charge and Supervision provided the adopting Registrant has performed a detailed and thoroughly documented review and will assume complete responsibility for the work of that previous Registrant.

(5) Under no circumstances shall a Registrant adopt the Work Products developed by unregistered persons who themselves were not working under the Direct Charge and Supervision of a Registrant.

(6) Any document bearing the Registrant's seal must also be appropriately dated and signed with either a legible hand written Signature adjacent to (not obscuring) the seal or a properly encrypted digital Signature, in compliance with 250 CMR.

(7) The Registrant shall not affix his or her seal to stickers, decals, cards, stationery, advertising, or any other such material.

(8) The Registrant must take reasonable steps to prevent the Registrant's seal or digital Signature encryption key from being lost, stolen or out of the Registrant's personal possession or control.

(9) The Registrant shall not allow another person to use the Registrant's seal or digital Signature encryption key.

(10) A Registrant whose License has lapsed shall not use his or her professional seal.

(11) When a digital Signature is applied to an Instrument of Service, it must have an electronic authentication process attached to it that is uniquely associated with the Registrant, can be authenticated by the recipient, and is uniquely linked to the underlying documents in a manner that will invalidate the digital Signature if any part of the document is changed.

(12) A Registrant is responsible for all work on any plan that bears the Registrant's professional seal unless the Registrant expressly and properly limits the Registrant's responsibility as set forth in 250 CMR 5.03(13).

(13) If a Registrant does not take responsibility for all of the work on an Instrument of Service, the Registrant shall add any suitable comments near, but not through the seal to limit their responsibility. Such comments might limit responsibility to such things as electrical design, structural design, property boundaries, a specified portion of the document, or a specified change.

(14) A Registrant may assume responsibility for coordination of an entire project and sign and seal the Instruments of Service for the entire project, provided that the Instruments of Service for each technical segment are signed and sealed by the qualified Registrant who either prepared or directly supervised the preparation of said technical segment.

(15) A Registrant shall sign, date and seal Instruments of Service prepared by the Registrant, when those documents are filed with public authorities. If the Instrument of Service is a set of printed plans, each sheet must be individually signed and sealed and appropriately dated, unless otherwise authorized by statute.

5.04: Direct Charge and Supervision

A Registrant must exercise Direct Charge and Supervision over those persons assisting in the preparation of Instruments of Service. Direct Charge and Supervision requires at a minimum that:

- (1) the Registrant exercised unambiguous decision-making authority with respect to the preparation of the Instruments of Service he or she sealed and signed, without interference or undue influence from any other individual or entity;
- (2) the persons assisting in the preparation of the Instruments of Service were subordinates reporting directly to the Registrant rather than through some other person or entity capable of subverting the Registrant's direction;
- (3) the Registrant had the freedom and authority to assign personnel, and to employ appropriate technologies and equipment for the preparation of Instruments of Service;
- (4) the Registrant exercised due care in assigning tasks to persons assisting in the preparation of Instruments of Service based upon the Registrant's knowledge of each person's expertise, knowledge and skill levels;
- (5) the Registrant has a verifiable written record establishing that contributing work provided by unlicensed individuals was subject to regular and continuing Direct Charge and Supervision throughout the development process;
- (6) the work performed by unlicensed individuals does not include approval of final designs or decisions; and
- (7) the persons assisting the Registrant preparing the Instruments of Service had continuous access to and guidance from the Registrant throughout the development process.

[Top](#)

5.05: Business Entities

A Business Entity may provide or offer to provide engineering or surveying services only if a registered engineer or land surveyor has management responsibility for that part of the business. In this context, such Registrant is referred to as the Registrant-in-charge.

The relationship between the Business Entity and the Registrant-in-charge must be characterized by the following:

- (1) the Registrant-in-charge or a Registrant in his or her charge exercises Direct Charge and Supervision as set forth in 250 CMR 5.04; and
- (2) the Registrant-in-charge is an active participant in the contracting, reporting, publishing, scheduling, *etc.* of professional services being offered by the Business Entity.

5.06: License Renewal

A Registrant is responsible for maintaining his or her License to practice in good standing by renewing the License as required by M.G.L. c. 112, § 81N and 250 CMR 5.06, by providing all information required by the Board, and by maintaining generally acceptable ethical, professional and business practices. This responsibility cannot be delegated to others. Practice under a License that has not been properly renewed is considered the unlicensed Practice of Engineering or Practice of Land surveying and may result in disciplinary action.

- (1) A License is valid for a period ending June 30th of the next even-numbered year and requires renewal at that time. A License that is not renewed on or before the June 30th expiration date shall lapse.
- (2) A Registrant shall apply for renewal of his or her License on or before the date the License will lapse. To apply for renewal of a License, a Registrant shall submit to the Board a completed License renewal application on a form prescribed by the Board and shall pay such fees for renewal of that License as may be established by the Executive Office of Administration and Finance pursuant to M.G.L. c. 7, § 3B.
- (3) As a condition for renewal of his or her License, a Registrant must submit to the Board satisfactory proof that the Registrant is in compliance with statutory and regulatory requirements specified by the Board, including but not limited to, M.G.L. c. 62C, § 47A and § 49A, and 250 CMR 5.09.
- (4) It is the responsibility of each Registrant to notify the Board of any changes in his or her address of record as well as to know the status of his or her License.
- (5) Failure to receive renewal notification from the Board does not excuse the Registrant from responsibility for timely renewal.
- (6) A Registrant with a lapsed License is no longer permitted to practice engineering or land surveying in the Commonwealth and the use of the Registrant's seal is prohibited.
- (7) A License may be renewed within two years of lapsing provided a renewal form is submitted along with the required fees, including the late fee.
- (8) A License cannot be renewed if it has lapsed for more than two years. After the first two years, the former Registrant must file for reinstatement pursuant to 250 CMR 5.07.

[Top](#)

5.07: Reinstatement of Lapsed License

An individual whose License has lapsed for more than two years may apply for reinstatement of his or her License by:

- (1) Submitting a properly completed Reinstatement Application Form with the applicable filing fee;
- (2) Demonstrating to the Board's satisfaction that nothing has occurred during the lapsed period which would justify the revocation of the Registrant's License under the provisions of M.G.L. c. 112, § 81P or any other applicable law;
- (3) Demonstrating to the Board's satisfaction that the Registrant meets the current requirements for registration, which may include an oral interview/exam, submission of documentation, and the required written examinations; and
- (4) Paying applicable late fees and renewal fees for missed licensing cycles as required by the Director of the Division of Professional Licensure.

[Top](#)

5.08: Use of Title Engineer or Land Surveyor

No person, other than a Registrant holding a current License to practice in the applicable profession, shall advertise or hold themselves out as either a Professional Engineer or a Professional Land Surveyor, or use any other title to imply that they are qualified to practice engineering or land surveying in the Commonwealth, or in any other way hold themselves out as able to perform any of the Licensed Branches of engineering or land surveying.

250 CMR 5.08 shall not prohibit a person who is not registered/Licensed in Massachusetts but who holds a current License to practice in another state or Jurisdiction and who declares or otherwise qualifies his or her title in a manner that does not imply that the person is qualified to practice in Massachusetts (*e.g.*, "Professional Engineer, Kansas" would be acceptable).

[Top](#)

5.09: Professional and Moral Character

(1) A Registrant shall provide the Board with written notification of any disciplinary action or restriction on practice imposed against any professional License, registration, certificate, or permit held by the Registrant by the applicable governmental authority of any state, territory or political subdivision of the United States or any foreign jurisdiction. Such notice must be received by the Board within 30 days of the effective date of said discipline or restriction.

(2) A Registrant shall provide the Board with written notification of the Registrant's conviction of any crime, including any misdemeanor or felony, other than a routine traffic violation, made by a court or any other adverse action by any state or federal agency. Such notice must be received by the Board within 30 days of said conviction or adverse action. Records of compliance with 250 CMR 5.09(2) shall be exhibited to the Board upon demand.

(3) For the purposes of 250 CMR 5.09(2), the term "conviction" means any of the following:

- (a) a final judgment entered after a jury verdict of guilty or a judicial finding of guilty;
- (b) a plea of guilty;
- (c) a plea of *nolo contendere* (no contest); or
- (d) any other plea or finding which is treated by the court as a plea or finding of guilty.

The standards in 250 CMR 5.09(3)(a) through (d) shall apply regardless of the law of the jurisdiction in which the disposition occurred.

[Top](#)

REGULATORY AUTHORITY

250 CMR 5.00: M.G.L. c. 112, §§84D through 81T; c. 13, § 45.

Code of Ethics

I hereby subscribe to and agree to exemplify the following code of ethics:

It shall be considered unprofessional and inconsistent with honorable and dignified bearing for any Professional Land Surveyor:

- 1.** To act for his client or employer in professional matters other than as a faithful agent or trustee, or to accept any remuneration for work performed other than his stated or agreed upon recompense for services rendered regardless of its source.
- 2.** To attempt to injure falsely or maliciously, directly or indirectly, the professional reputation, prospects or business of anyone, including the use of hearsay or rumors.
- 3.** To attempt to supplant another land surveyor or another professional service provider, after definitive steps have been taken towards retaining his services or his services have been retained. This provision shall be construed so as to prevent a land surveyor from offering to perform work which is otherwise contracted for.
- 4.** To advertise in self-laudatory language or in any other manner derogatory to the dignity of the profession.
- 5.** To attempt circumventing Rhode Island General Laws regarding land surveyors by reviewing and stamping plans for anyone when you, the land surveyor, are not the person in "responsible charge" as defined by Law.
- 6.** To assist anyone filing for a "Certificate of Authorization" by having your name placed as the person in "responsible charge". A land surveyor may not, for the purposes of this section (5-8.1-13(6)), be designated as being in responsible charge on more than two (2) Certificates of Authorization.
- 7.** To review or continue the work of another surveyor for the same client or subsequent client except by notifying such surveyor in writing. In cases when it is explicitly clear that the surveyor has been terminated and notified by his client, the provisions of this paragraph are exempted.
- 8.** To review or continue the work of another surveyor for the same client or subsequent client, when any outstanding fees are owed that surveyor unless you have notified, in writing, the surveyor and client.
- 9.** To stamp or modify another surveyor's plans without their written consent, specifying the extent of the revisions.
- 10.** To willfully and knowingly violate the provisions of R.I.G.L. 5-8.1 as amended or to assist any person seeking to do so.

The Code of Ethics of the Massachusetts Association of Land Surveyors and Civil Engineers, Inc.

It shall be considered professional and consistent with honorable and dignified conduct for you as a Registered Professional Land Surveyor:

- A. To hold paramount the safety, health and welfare of the public in the performance of your duties;
- B. To act in professional matters for each employer and clients as a faithful agent or trustee and to avoid conflicts of interest;
- C. To build a professional reputation on the merit of your service
- D. To issue public statements only in an objective and truthful manner;
- E. To act in such a manner as to uphold and enhance the honor, dignity and integrity of the profession;
- F. To perform services only in the area of your legal and technical competence.

Ethical behavior is not limited to matters covered explicitly in the Code of Ethics. It is based also upon considerations of justice, courtesy, honesty, sincerity and dignity, associated with mutual interests among people and applies to all areas of professional and business activities. A Land Surveyor must apply the principles of ethics to professional activities, and must insist that other members of this and related professions act in an ethical manner. Standards of ethical conduct apply to your daily work to no lesser degree than do the Procedural and Technical Standards.

(Adopted December 5, 1958; amended March 13, 1992)

Canons of Ethics

It shall be considered unprofessional and inconsistent with honorable and dignified conduct and contrary to the public interest for any member of the New York State Association of Professional Land Surveyors:

1. To act for his client or for his employer otherwise than as a faithful agent or trustee.
2. To accept remuneration for services rendered other than from his client or his employer.
3. To attempt to supplant another Land Surveyor in a particular engagement after definite steps have been taken toward his employment.
4. To attempt to injure, falsely or maliciously, the professional reputation, business, or employment position of another Land Surveyor.
5. To review the work of another Land Surveyor for the same client, except with the knowledge of such Land Surveyor, unless such Land Surveyor's engagement on the work which is subject to review has been terminated.
6. To advertise Land Surveying services in self-laudatory language, or in any other manner derogatory to the dignity of the profession.
7. To use the advantages of a salaried position to compete unfairly with other Land Surveyors.
8. To exert undue influence or to offer, solicit or accept compensation for the purpose of affecting negotiation for any Land Surveying engagement.
9. To act in any manner derogatory to the honor, integrity or dignity of the Land Surveying profession.

Foreword

Land Surveying is your profession and, as Licensed Land Surveyors in New York State, the Law has reserved to each of you exclusively the right to practice your profession.

You are presumed to have accepted this right along with the attendant obligations implied by such a mandate which, in order of responsibility, is first to the public, second to the profession and to your colleagues within the profession, and third to you, the individual practitioner.

Because of this unique situation in which the Land Surveyors are placed by virtue of their special knowledge and skill and, as it is with all professions, certain distinctive fundamental qualities of conduct and decorum are assumed.

Only however, by the creation and application of effective and realistic precepts and guide lines within these areas can any profession hope to survive and retain the public recognition and support to which it aspires.

It is important, therefore, that a Profession Association establish within its organizational framework the Fundamental Principles of Professional Conduct that will uphold and advance the honor and dignity of the profession in keeping with its highest standards of devotion, competence, knowledge and skill toward the discharge of the moral obligations it has acknowledged to the public, to the profession, and to the fellow practitioner.

We believe the Canons of Ethics presented here will serve the best interests of the New York State Association of Professional Land Surveyors and its membership.

Adopted September 24, 1966

Guide to Professional Practice Under the Canons of Ethics

Article 1: "It shall be considered unprofessional... To act for this client or for his employer otherwise than as a faithful agent or trustee."

1. He shall not undertake any assignment which would create a potential conflict of interest between the Land Surveyor and his client or his employer.
2. He shall not disclose information concerning the business affairs of his clients or employer without their consent.
3. He shall not use information coming to him confidentially in the course of his assignment as a means of making personal profit if such action is adverse to the interest of this client or his employer or the public.
4. He shall not divulge any confidential findings of studies or actions of a Land Surveying commission or board of which he is a member, without official consent.

5. He shall not give professional advice which does not fully reflect his best professional judgment.
6. He shall not misrepresent his qualifications to a client, to an employer, or to the profession.
7. He shall not knowingly accept an assignment the results of which he will later act upon as a member of a public or quasi-public board.
8. He shall act with fairness and justice to all parties when administering the terms of any contract.
9. He shall engage, or advise engaging, experts and specialists when in his judgment such services are to his client's or employer's best interests.

Article 2: "It shall be considered unprofessional... To accept remuneration for services rendered other than from his client or his employer."

1. He shall not accept compensation from more than one interested party for the same service, or for services pertaining to the same work under circumstances where there may be conflict of interest without the consent of all interested parties.
2. He shall not accept any royalty or commission on any work for which he is responsible, without the consent of his client or employer.

Article 3: "It shall be considered unprofessional... To attempt to supplant another Land Surveyor in a particular engagement after definite steps have been taken toward his employment."

1. He shall not continue to see employment on a specific engagement after being advised that another Land Surveyor has been selected subject to approval of detailed arrangements.
2. He shall not knowingly accept employment from a client who already has a Land Surveyor under contract for the same work not yet completed or paid for.
3. He shall not, in the event that another Land Surveyor has made a study and report on a specific project, approach the prospective client regarding subsequent phases of the project, unless such contact is initiated by the client.

Article 4: "It shall be considered unprofessional... To attempt to injure, falsely or maliciously, the professional reputation, business, or employment position of another Land Surveyor."

This does not remove the moral obligation to expose unethical conduct before the proper authorities. Neither does it preclude a frank but private appraisal of employees being considered for employment.

Article 5: "It shall be considered unprofessional... To review the work of another Land Surveyor for the same client, except with the knowledge of such Land Surveyor, unless such Land Surveyor's engagement of the work which is subject to review has been terminated and he has been compensated for his work."

The article as state is believed to be sufficiently explicit. However, even thought the first Land Surveyor's services have been terminated, it is a matter of common courtesy to let him know that his work is being reviewed.

Article 6: "It shall be considered unprofessional... To advertise Land Surveying service in self-laudatory language, or in any other manner derogatory to the dignity of the profession."

1. The following are considered to be permissible:

a. Professional cards and other factual representations in recognized dignified publications and listings in rosters or directories published by responsible organizations provided that the cards or listings are consistent in size and content, and are in a section of the publication regularly devoted to such professional cards. Information given must be factual, dignified, and free from ostentatious, complimentary or laudatory implications.

b. Brochures and other factual representations of experience, facilities, personnel and capacity to render service, providing they are not misleading with respect to the Land Surveyor's direct participation in projects described.

c. A statement of his name or the name of his firm and statement of his type of service posted on projects for which he renders services.

d. Preparation or authorization of descriptive articles for the lay or technical press, which are factual, dignified and free from ostentatious or laudatory implications. Such articles shall not imply anything more than his direct participation in work described.

e. Permission by a Land Surveyor for his name to be used in commercial advertisements, such as may be published by dignified notation acknowledging the Land Surveyor's participation in the project described.

Article 7. “It shall be considered unprofessional... To use the advantages of a salaried position to compete unfairly with other Land Surveyors.”

1. He shall not engage in outside Land Surveying work to an extent prejudicial to his salaried position or detrimental to established Land Surveying services, or which would result in a conflict of interest.

2. If permitted by his employer, his outside activities should preferably be confined to consultation on phases of Land Surveying for which he has special qualifications not inherently available in usual Land Surveying practice.

Article 8: “It shall be considered unprofessional... To exert undue influence or to offer, solicit or accept compensation for the purpose of affecting negotiations for any Land Surveying engagement.

1. He shall not make political contributions for the purpose of influencing the selection of Land Surveyors on future engagements.

2. He shall not give or receive any payments for the purpose of influencing the selection of Land Surveyor for any Land Surveying engagement.

3. He shall not create obligation on prospective clients or employers through extravagant entertainment, gifts or similar expenditures.

4. He shall not engage in “fee splitting” or other distribution of fees for other than services performed and in proportion to the value of such services.

5. He shall not solicit or accept a Land Surveying engagement, or submit a proposal or contract covering Land Surveying services when such payment is contingent upon results supporting a predetermined conclusion.

6. He shall not request, propose or accept a Land Surveying engagement on a contingent fee basis if the contingent basis or the contingent services performed influence the selection of the Land Surveyor.

Article 9: “It shall be considered unprofessional... To act in any manner derogatory to the honor, integrity or dignity of the Land Surveying profession.”

1. He shall not be associated in responsibility for work with Land Surveyors who do not conform to these ethical practices.

2. He shall express an opinion only when it is founded on adequate knowledge and honest conviction while he is serving as a witness before a court, commission, or other tribunal.
3. He shall not issue statements, criticisms, or argument on matters connected with public policy which are inspired or paid for by private interests, unless he indicates on whose behalf he is making the statement.
4. He shall not endorse products or processes in commercial advertisements.
5. He shall refrain from expressing publicly an opinion on any Land Surveying subject unless he is informed as to the facts relating thereto.
6. He shall exercise due restraint in criticizing another Land Surveyor's work.
7. This article appropriately may be considered as a summation of the Canons of Ethics for Land Surveyors. It requires that a member of the New York State Association of Professional Land Surveyors shall act in accordance with high standards of moral conduct under any and all circumstances.

The Vermont Statutes Online

Title 26: Professions and Occupations

Chapter 45: LAND SURVEYORS

Sub-Chapter 03: Licenses

26 V.S.A. § 2598. Unprofessional conduct

§ 2598. Unprofessional conduct

(a) Unprofessional conduct is the conduct prohibited by this section and by 3 V.S.A. § 129a.

(b) Unprofessional conduct includes the following actions by a licensee:

(1) practicing or offering to practice beyond the scope permitted by law;

(2) accepting and performing responsibilities which the licensee knows or has reason to know that he or she is not competent to perform;

(3) making any material misrepresentation with respect to the qualifications of or experience of an applicant or otherwise in the practice of the profession, whether by commission or omission;

(4) [Repealed.]

(5) willfully acting, while serving as a board member, in any way to contravene the provisions of this chapter and thereby artificially restrict the entry of qualified persons into the profession;

(6) using the licensee's seal on documents prepared by others not in the licensee's direct supervision, or use the seal of another. (Added 1967, No. 364 (Adj. Sess.), § 20, eff. Jan. 1, 1969; amended 1971, No. 250 (Adj. Sess.), § 3; 1985, No. 245 (Adj. Sess.), § 1; 1991, No. 167 (Adj. Sess.), § 38c; 1997, No. 145 (Adj. Sess.), § 47; 2011, No. 66, § 7, eff. June 1, 2011; 2011, No. 116 (Adj. Sess.), § 35.)

The Vermont Statutes Online

Title 3: Executive

Chapter 5: SECRETARY OF STATE

Sub-Chapter 3: Professional Regulation

3 V.S.A. § 129a. Unprofessional conduct

§ 129a. Unprofessional conduct

(a) In addition to any other provision of law, the following conduct by a licensee constitutes unprofessional conduct. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license or other disciplinary action. Any one of the following items, or any combination of items, whether or not the conduct at issue was committed within or outside the State, shall constitute unprofessional conduct:

- (1) Fraudulent or deceptive procurement or use of a license.
- (2) Advertising that is intended or has a tendency to deceive.
- (3) Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession.
- (4) Failing to comply with an order of the board or violating any term or condition of a license restricted by the board.
- (5) Practicing the profession when medically or psychologically unfit to do so.
- (6) Delegating professional responsibilities to a person whom the licensed professional knows, or has reason to know, is not qualified by training, experience, education, or licensing credentials to perform them, or knowingly providing professional supervision or serving as a preceptor to a person who has not been licensed or registered as required by the laws of that person's profession.
- (7) Willfully making or filing false reports or records in the practice of the profession; willfully impeding or obstructing the proper making or filing of reports or records or willfully failing to file the proper reports or records.
- (8) Failing to make available promptly to a person using professional health care services, that person's representative, or succeeding health care professionals or institutions, upon written

request and direction of the person using professional health care services, copies of that person's records in the possession or under the control of the licensed practitioner, or failing to notify patients or clients how to obtain their records when a practice closes.

(9) Failing to retain client records for a period of seven years, unless laws specific to the profession allow for a shorter retention period. When other laws or agency rules require retention for a longer period of time, the longer retention period shall apply.

(10) Conviction of a crime related to the practice of the profession or conviction of a felony, whether or not related to the practice of the profession.

(11) Failing to report to the office a conviction of any felony or any offense related to the practice of the profession in a Vermont District Court, a Vermont Superior Court, a federal court, or a court outside Vermont within 30 days.

(12) Exercising undue influence on or taking improper advantage of a person using professional services, or promoting the sale of services or goods in a manner which exploits a person for the financial gain of the practitioner or a third party.

(13) Performing treatments or providing services which the licensee is not qualified to perform or which are beyond the scope of the licensee's education, training, capabilities, experience, or scope of practice.

(14) Failing to report to the office within 30 days a change of name or address.

(15) Failing to exercise independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.

(b) Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes:

(1) performance of unsafe or unacceptable patient or client care; or

(2) failure to conform to the essential standards of acceptable and prevailing practice.

(c) The burden of proof in a disciplinary action shall be on the State to show by a preponderance of the evidence that the person has engaged in unprofessional conduct.

(d) After hearing, and upon a finding of unprofessional conduct, a board or an administrative law officer may take disciplinary action against a licensee or applicant, including imposing an administrative penalty not to exceed \$1,000.00 for each unprofessional conduct violation. Any money received under this subsection shall be deposited in the Professional Regulatory Fee Fund established in section 124 of this title for the purpose of providing education and training for

board members and advisor appointees. The Director shall detail in the annual report receipts and expenses from money received under this subsection.

(e) In the case where a standard of unprofessional conduct as set forth in this section conflicts with a standard set forth in a specific board's statute or rule, the standard that is most protective of the public shall govern. (Added 1997, No. 40, § 5; amended 2001, No. 151 (Adj. Sess.), § 2, eff. June 27, 2002; 2003, No. 60, § 2; 2005, No. 27, § 5; 2005, No. 148 (Adj. Sess.), § 4; 2009, No. 35, § 2; 2011, No. 66, § 3, eff. June 1, 2011; 2011, No. 116 (Adj. Sess.), § 5.)

CODE OF ETHICS

of the
Association of Surveyors of Papua and New Guinea

I hold every man a debtor to his profession; from which as men of course do seek to receive countenance and profit so ought they of duty to endeavour themselves by way of amends to be a help and ornament thereunto.

Sir Francis Bacon (1561-1626)

ARTICLE 1 "He (the surveyor) shall always endeavour to maintain and present to his client or employer a high standard of professional conduct and bearing worthy of his profession."

ARTICLE 2 "He shall ensure that his employees or junior associates shall likewise conform to a proper and dignified standard of behaviour, dress and bearing, whilst employed in a manner associated with the profession. "

ARTICLE 3 "He shall not solicit or canvass for work by advertising, public announcement, direct approach, or in any way which in the opinion of the Council would bring the Association or its members into disrepute. He shall not advertise through any medium whatsoever the fact that he is a surveyor or carries out surveying save that the following shall be permissible, viz.:-

- (a) to exhibit plates and signs at the member's place or places of business which exhibit his name and profession, provided that the characters are within reasonable limits as to size;
- (b) to advertise for a period not exceeding three months the commencement of practice in any new place or dissolving of partnership; and
- (c) to insert in a newspaper a professional card or notice containing his name or the name of his firm, together with initials or words indicating diplomas, degrees or membership of any institution, particulars of business and time of attendance thereat, and words indicating simply his profession, which card to be of reasonable proportions."

ARTICLE 4 "He shall observe the Scale of Fees, Charges, etc., adopted or approved by the Association and shall not indulge in undercutting or giving discounts, commissions or allowances in connection with professional work, where such is contrary to the wording or spirit of such Scales."

ARTICLE 5 "He shall not knowingly accept professional work on which another member is engaged, except in collaboration with or with the consent of such other member. This clause shall not apply where a client has given notice of the termination of the previous engagement."

ARTICLE 6 "He shall regard as confidential any information imparted to him as such concerning the business affairs, methods or processes of a client or employer."

ARTICLE 7 "He shall inform his client or employer of any interests, circumstances or business connection which may be deemed adversely to influence his judgment or the quality of his services to such client or employer."

ARTICLE 8 "He shall accept compensation, financial or otherwise for a particular service from one source only, except with the knowledge and consent of all interested parties."

ARTICLE 9 "He shall accept full responsibility for professional advice given to his client and shall not practice through the medium of or in association with a limited liability company or similar organisation without the specific approval of the Council."

ARTICLE 10 "He shall co-operate in raising the standard of his profession by the interchange of technical knowledge and experience, and by the active participation in the affairs and proceedings of the Association."

ARTICLE 11 "He shall corporately accept a responsibility to the Government of the day and to the general public for advice and assistance in matters of national welfare and appropriate to the professional interests of his Association."

ARTICLE 12 "He shall conform to any decision by the Association on a question of ethical conduct, in accordance with the ruling given by a learned judge to the effect that 'Disreputable professional conduct is such, when professional brethren of good repute and standing would consider such conduct disreputable or unprofessional'."