

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

360 BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS

Chapter 90: STANDARDS OF PRACTICE

SUMMARY: This Chapter sets forth the standards of practice for licensees; Part 1 establishes professional standards and Part 2 establishes technical standards.

Note: Certain defined terms appear in italics. See the definitions in Chapter 10 of these rules.

PART 1. PROFESSIONAL STANDARDS

§1. 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 founded 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.

§2. 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 the 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 or 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.

PART 2. TECHNICAL STANDARDS.

§1. APPLICABILITY

The standards established by this chapter shall apply to services by a licensee when that licensee is setting monuments or making marks in the field intending to depict the location of title or easement boundaries; or when the licensee's work product is used as a basis for description that may be recorded, or could be used to identify boundaries or to locate improvements with respect to boundaries.

§2. EXCEPTION

The licensee and client may agree, in writing, to except any of the technical standards established by Part 2 of this chapter, other than the written confirmation required by Part 2, section 3 below. The nature and extent of any such exceptions must be noted on the face of the plan or other work product.

§3. WRITTEN CONFIRMATION

1. Timing

Before beginning any professional services the licensee shall affirm in a written confirmation to the client that all services will be performed in accordance with the standards established by this chapter, unless excepted in accordance with Part 2, section 2 above. Any exceptions from the technical standards made in accordance with Part 2, section 2 above must be noted in the written confirmation.

2. Content

The written confirmation must set forth with reasonable certainty the scope of the licensee's duty, fee or fee basis, and time periods to complete the agreed upon services.

3. Delivery

The licensee shall provide a copy of the written confirmation, signed by the licensee or the licensee's authorized representative, to the client before commencing the professional services.

4. Modifications

Any modifications of the written confirmation shall be in writing and must comply with subsections 1, 2 and 3 herein.

§4. RESEARCH

1. **Public Records.** The licensee shall search the public records in sufficient scope and depth such that the ordinarily prudent licensee would be expected to identify, at a minimum, the following:

A. Conflicting boundary locations affecting the property.

B. Gaps or overlaps between the property boundaries and the boundaries of adjoining properties.

- C. Scrivener's errors.
 - D. The location of the boundaries of the property.
 - E. Easements or restrictions burdening or benefiting the property.
2. Private Records. The licensee shall identify, locate, and review private records that are made known to the licensee and would be useful in:
- A. Locating the boundaries of the property.
 - B. Disclosing a conflict regarding the boundaries of the property.
 - C. Locating easements or restrictions on the property.

§5. MONUMENTS

1. Placement

The licensee shall ensure that sufficient monuments are present upon completion of the surveying services so that the location of the boundaries are apparent and obvious or may be reasonably recovered or found by the client.

2. Recovery, Longevity, Detection and Identification

The licensee shall ensure that any monument set by the licensee, is located in such a manner and is of sufficient size, composition, and material that:

- A. The likelihood of disturbance is minimal.
- B. The life expectancy of the monument, under normal circumstances, will exceed 25 years.
- C. The monument is capable of being detected with standard devices commonly in use by licensees; and,
- D. The licensee who set the monument can be identified with certainty by inspection of the monument in the field.

§6. REPORTING

1. General Duty

The licensee shall provide to the client a written report or plan that is consistent with the written confirmation and can be supported by facts, evidence, and information that are consistent with professional practice and are ordinarily relied upon by licensees.

2. Boundary Report Duty

When the services involve identification and location of boundaries, the written report or plan shall include, at a minimum:

- A. Relevant records and possession boundaries and possible locations of ownership boundaries.
- B. Encumbrances that are visible or identified by records research as described in Part 2, section 4 above.
- C. Any other matter a licensee should reasonably expect to be relevant to a client's current needs or is necessary given the circumstances of the situation at the time of the survey and is within the scope of professional practice.

3. Completeness

The licensee shall ensure that the plan or written report or both would permit another licensee, without additional research, to:

- A. Accurately retrace each boundary in the field.
- B. Recognize each monument cited and whether it was set by the licensee or not.
- C. Know the names of the property owners and of the adjoining property owners and their source of title or basis for their claim at the time of the survey (if reasonably ascertainable).
- D. Identify the location of the property with certainty.
- E. Know the meaning of all symbols or abbreviations used.
- F. Identify the name of the licensee who took responsible charge of the services rendered.

- G. Contact the licensee or firm that performed the services (if still in existence).
 - H. Identify the reference basis for all directions.
 - I. Identify the relative relationships between the length of graphic lines (if used) to lines similarly situated in the field, even if the document has been reduced or enlarged at a later time.
 - J. Expect the information shown in the document to be in a form or basis that complies with professional practice at the time of the survey.
 - K. Expect the precision of the measurements reported to have a reasonable correlation to the precision and procedures used to obtain the measurements.
 - L. Determine what exceptions have been taken in accordance with Part 2, section 2 above.
4. Archival Information

The licensee shall retain or take reasonable steps to ensure access to archival information of the professional services in such a form that another licensee (provided that access by such licensee is appropriate), with typical equipment and technology, would be able to view the documents and information; identify the relevant facts, evidence, and information; and recreate the analysis and comprehend the results reached.

§7. EQUIPMENT

1. Maintenance, Checking and Calibration

The licensee shall maintain, check and calibrate equipment to ensure that the equipment is giving results compatible with its intended use and achieving the precision that is required, or is reasonably expected by the client.

2. Retracement of Another's Work

When retracing an earlier survey, a licensee shall consider the capabilities of the equipment used to obtain original measurements insofar as that information is known or should be reasonably known to the licensee and may affect the re-establishment of any corner or boundary.

3. Monumenting

When monumenting or marking boundaries, the licensee shall use equipment that will give reliable precision.

§8. FIELD TECHNIQUES

1. Investigation

The licensee shall investigate the site using customary care and procedures to discover and identify the boundary evidence at the site and incorporate that evidence into the boundary location analysis.

2. Measurements

The licensee shall perform all measurements required for boundary determination with sufficient redundancy so that blunders will be detected.

STATUTORY AUTHORITY: 32 MRSA §13903(2)

EFFECTIVE DATE:

April 1, 2001 (Chapters 1-6 repealed)