

CHAPTER 8
PROFESSIONAL CONDUCT OF LICENSEES

[Prior to 11/14/01, see 193C—Chapter 4]

193C—8.1(542B) General statement. In order to establish and maintain a high standard of integrity, skills and practice in the professions of engineering and land surveying, and to safeguard the life, health, property and welfare of the public, the following code of professional conduct shall be binding upon every person holding a certificate of licensure as a professional engineer or land surveyor in this state. The code of professional conduct is an exercise of the police power vested in the board by the Acts of the legislature.

193C—8.2(542B) Code of professional conduct. All persons licensed under Iowa Code chapter 542B are charged with having knowledge of the existence of this code of professional conduct and shall be expected to be familiar with its provisions, to understand them, and to abide by them. Such knowledge includes the understanding that the practices of engineering and land surveying are a privilege, as opposed to a right, and the licensee shall be forthright and candid in statements or written response to the board or its representatives on matters pertaining to professional conduct.

8.2(1) Responsibility to the public. Licensees shall conduct their professional practices in a manner that will protect life, health and property and enhance the public welfare. If their professional judgment is overruled under circumstances where safety, health and welfare of the public are endangered, they shall inform their employer or client of the possible consequences, notify such other proper authority as may be appropriate, and withdraw from further services on the project.

Licensees shall neither approve nor certify engineering or land surveying documents that may be harmful to the public health and welfare and that are not in conformity with accepted engineering or land surveying standards.

8.2(2) Competency for assignments. Licensees 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. Licensees shall engage experts or advise that experts and specialists be engaged whenever the client or employer's interests are best served by such service.

Licensees may accept an assignment on a project requiring education or experience outside their field of competence, but only to the extent that their services are restricted to those phases of the project in which they are qualified. All other phases of such projects shall be performed by qualified associates, consultants or employees.

8.2(3) Truth in reports and testimony. Licensees, when serving as expert or technical witnesses 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 their testimony. Under these circumstances, the licensee must disclose inadequate knowledge.

Licensees shall be objective and truthful in all professional reports, statements or testimony. All relevant and pertinent information shall be included in such reports, statements or testimony. Licensees shall avoid the use of statements containing a material misrepresentation of fact or omitting a material fact.

8.2(4) Conflict of interest. The following guidelines regarding conflict of interest shall apply:

a. Licensees shall not issue statements, criticisms or arguments on engineering or land surveying matters connected with public policy which are influenced or paid for by an interested party, or parties, unless they have prefaced their comments by explicitly identifying themselves, by disclosing the identities of the party or parties on whose behalf they are speaking, and by revealing the existence of any pecuniary interest.

b. Licensees shall avoid all known conflicts of interest with their employers or clients and, when unforeseen conflicts arise, shall promptly inform their employers or clients of any business association, interest, or circumstances that could influence judgment or the quality of services.

c. Licensees shall not accept compensation, financial or otherwise, from more than one party for services on the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.

d. Licensees shall act in professional matters for each employer or client as faithful agents or trustees and maintain full confidentiality on all matters in which the welfare of the public is not endangered.

8.2(5) Ethics. Licensees shall conduct their business and professional practices of engineering and land surveying in an ethical manner. In addition to the provisions of this chapter, the board will consider, although not necessarily be bound by, the ethical standards that address public protection issues adopted by a recognized state or national engineering or land surveying organization such as the National Society of Professional Engineers and the National Society of Professional Surveyors.

8.2(6) Unethical or illegal conduct.

a. *Business practices.* The following guidelines regarding unethical or illegal business practices shall apply:

(1) Licensees shall not pay or offer to pay, either directly or indirectly, any commission, percentage, brokerage fee, political contribution, gift, or other consideration to secure work, except to a bona fide employee or bona fide, established commercial or marketing agency retained by them or to secure positions through employment agencies.

(2) Licensees, as employers, shall not engage in any discriminatory practice prohibited by law and shall, in the conduct of their business, employ personnel upon the basis of merit.

(3) Licensees shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with their clients or employers in connection with work for which they are responsible.

(4) Licensees shall not solicit or accept an engineering or land surveying contract from a governmental body when a principal or officer of their organization serves as a member.

(5) Licensees shall not associate with, or permit the use of their names or firms in a business venture by, any person or firm that they know, or have reason to believe, is engaging in business or professional practice of a fraudulent or dishonest nature.

(6) Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, firms, joint ventures, or past accomplishments.

b. *Individual professional conduct.* The following guidelines regarding illegal or unethical individual professional conduct shall apply:

(1) Licensees shall not use association with nonengineers, corporations or partnerships as “cloaks” for unethical acts.

(2) Licensees shall not violate any local, state or federal criminal law in the conduct of professional practice.

(3) Licensees shall not violate licensure laws of any state or territory.

(4) Licensees shall not affix their signatures or seals to any plans, plats or documents dealing with subject matter in which those licensees lack competence, nor to any plan, plat or document not prepared under their direct personal direction and control.

(5) Licensees shall not falsify their qualifications or permit misrepresentation of their or their associates' qualifications. They shall not misrepresent or exaggerate their responsibility in or for the subject matter of prior assignments.

c. Real property inspection reports.

- (1) Licensees shall not represent themselves as licensed land surveyors or professional engineers on real property inspection reports (i.e., mortgage surveys).
- (2) Licensees shall not place their firm names, logos, or title blocks on real property inspection reports (i.e., mortgage surveys).

193C—8.3(542B) Reporting of acts or omissions. Licensees shall report acts or omissions by a licensee that constitute negligence or carelessness. For the purposes of these rules, “negligence or carelessness” means demonstrating unreasonable lack of skill in the performance of engineering or land surveying services by failure of a licensee to maintain a reasonable standard of care in the licensee’s practice of engineering or land surveying. In the evaluation of reported acts or omissions, the board shall determine if the engineer or land surveyor has applied learning, skill and ability in a manner consistent with the standards of the professions ordinarily possessed and practiced in the same profession at the same time. Standards referred to in the immediately preceding sentence shall include any minimum standards adopted by this board and any standards adopted by recognized national or state engineering or land surveying organizations.

193C—8.4(542B) Standards of integrity.

1. Licensees shall answer all questions of a duly constituted investigative body of the state of Iowa concerning alleged violations by another person or firm.
2. When proven wrong, licensees shall admit and accept their own errors and shall not distort or alter the facts to justify their own decisions.
3. If licensees know or have reason to believe that another person or firm may be in violation of any Iowa law or rule regarding ethics or conduct of professional engineering or land surveying practice, those licensees shall present such information to the engineering and land surveying examining board in writing and shall cooperate with the board in furnishing further information or assistance required by the board.
4. Licensees shall not assist in the application of an individual they know is unqualified for licensure by reason of education, experience or character.

193C—8.5(542B) Offering of engineering or land surveying services by firms.

8.5(1) For purposes of these rules, “to offer” means to advertise in any medium, or to imply in writing or orally that owners or permanent employees of that firm are performing these services. Nothing in this rule is intended to prevent a firm from truthfully offering services as a project manager, administrator, or coordinator of a multidisciplinary project.

8.5(2) For purposes of these rules, the term “firm” includes corporations, professional corporations, registered limited liability partnerships, partnerships, limited liability companies, private practitioners employing others, persons or entities using fictitious or assumed names, or other business entities.

8.5(3) A firm shall not directly or by implication offer professional engineering services to the public unless it is owned or managed by, or regularly employs, one or more licensed professional engineers who directly control and personally supervise all professional engineering work performed by the firm.

8.5(4) A firm shall not directly or by implication offer land surveying services to the public unless it is owned or managed by, or regularly employs, one or more licensed land surveyors who directly control and personally supervise all land surveying work performed by the firm.

8.5(5) A firm shall not satisfy these requirements by hiring a licensed professional engineer or land surveyor on an as-needed, occasional, or consulting basis, whether an employee or independent contractor.

These rule are intended to implement Iowa Code sections 542B.6, 542B.21 and 542B.26 and chapter 272C.

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