

CHAPTER 7
DISCIPLINARY ACTIONS AGAINST CERTIFIED AND
ASSOCIATE APPRAISERS

193F—7.1(17A,272C,543D) Disciplinary authority. The board is empowered to administer Iowa Code chapters 17A, 272C, and 543D and related administrative rules for the protection and well-being of those persons who may rely upon registered associate appraisers or certified real property appraisers for the performance of real property appraisal services within this state and for clients in this state. To perform these functions, the board is broadly vested with authority to review and investigate alleged acts or omissions of registered associate appraisers and certified real property appraisers to determine whether disciplinary proceedings are warranted, to initiate and prosecute disciplinary proceedings, to establish standards of professional conduct, and to impose discipline pursuant to Iowa Code sections 17A.13, 272C.3 to 272C.6 and 272C.10, and Iowa Code chapter 543D.

193F—7.2(543D) Standards of practice. The standards of practice governing all real property appraisal activities shall be the Uniform Standards of Professional Appraisal Practice, including Provisions, Rules, Comments, and Statements, as promulgated by the Appraisal Standards Board of the Appraisal Foundation. All registered associate appraisers and certified real property appraisers shall comply with the USPAP edition applicable to each appraisal assignment.

193F—7.3(17A,272C,543D) Grounds for discipline. The board may initiate disciplinary action against a registered associate appraiser or a certified real property appraiser based on any one or more of the following grounds:

7.3(1) *Fraud in procuring a registration or certificate.* Fraud in procuring or attempting to procure a registration or certificate includes an intentional perversion of the truth when making application for an initial, renewal, reciprocal, or temporary registration or certificate to practice in this state, including:

- a. False representation of a material fact, whether by word or by conduct, by false or misleading allegation, or by concealment of that which should have been disclosed;
- b. Attempting to file or filing with the board any false or forged diploma, course certificate, identification, credential, license, registration, certification, examination report, affidavit, or other record;
- c. Failing or refusing to provide complete information in response to a question on an application for initial or renewal registration or certification; or
- d. Otherwise participating in any form of fraud or misrepresentation by act or omission.

7.3(2) *Professional incompetence.* Professional incompetence includes, but is not limited to:

- a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.
- b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners in the state of Iowa acting in the same or similar circumstances.
- c. A failure to exercise the degree of care which is ordinarily exercised by the average practitioner acting in the same or similar circumstances.
- d. Failure to conform to the minimal standards of acceptable and prevailing practice of registered associate appraisers or certified real property appraisers in this state.
- e. A willful, repeated, or material deviation from USPAP standards, or other act or omission that demonstrates an inability to safely practice in a manner protective of the public's interest, including any violation of USPAP's COMPETENCY RULE.

7.3(3) *Deceptive practices.* Deceptive practices are grounds for discipline, whether or not actual injury is established, and include:

- a. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of real property appraising.
- b. Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a registrant or certificate holder

in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

c. Acceptance of any fee by fraud or misrepresentation, or in violation of Iowa Code section 543D.18(2).

d. Falsification of business records or appraisal logs through false or deceptive representations or omissions.

e. Submission of false or misleading reports or information to the board including information supplied in an audit of continuing education, reports submitted as a condition of probation, or any reports identified in this rule.

f. Making any false or misleading statement in support of an application for registration or certification submitted by another.

g. Knowingly presenting as one's own a certificate or registration, certificate or registration number, or signature of another or of a fictitious registrant or certificate holder, or otherwise falsely impersonating a certified appraiser or registered associate appraiser.

h. Representing oneself as a registered associate appraiser or certified appraiser when one's registration or certificate has been suspended, revoked, surrendered, or placed on inactive status, or has lapsed.

i. Permitting another person to use the registrant's or certificate holder's registration or certificate for any purposes.

j. Fraud in representations as to skill or ability.

k. Misrepresenting a specialized service as an appraisal assignment in violation of Iowa Code section 543D.18(3) or (5).

7.3(4) *Unethical, harmful or detrimental conduct.* Registrants and certificate holders engaging in unethical conduct or practices harmful or detrimental to the public may be disciplined whether or not injury is established. Behaviors and conduct which are unethical, harmful or detrimental to the public may include, but are not limited to, the following actions:

a. A violation of 2007 Iowa Acts, Senate File 137, section 5 (improper influence of an appraisal assignment).

b. Verbal or physical abuse, improper sexual contact, or making suggestive, lewd, lascivious, offensive or improper remarks or advances, if such behavior occurs within the practice of real property appraising or if such behavior otherwise provides a reasonable basis for the board to conclude that such behavior within the practice of real estate appraising would place the public at risk.

c. Engaging in a professional conflict of interest, or otherwise violating the public trust, as provided in Iowa Code section 543D.18(1) as amended by 2007 Iowa Acts, Senate File 137, section 3, and in USPAP's ETHICS RULE.

d. Aiding or abetting any unlawful activity for which a civil penalty can be imposed under 193F—16.2(543D).

7.3(5) *Lack of proper qualifications.*

a. Continuing to practice as a registered associate appraiser or certified real property appraiser without satisfying the continuing education required for registration or certificate renewal.

b. Acting as a supervisor without proper qualification, as provided in 193F—15.3(543D).

c. Habitual intoxication or addiction to the use of drugs, or impairment which adversely affects the registrant's or certificate holder's ability to practice in a safe and competent manner.

d. Any act, conduct, or condition, including lack of education or experience and careless or intentional acts or omissions, that demonstrates a lack of qualifications which are necessary to ensure a high standard of professional care as provided in Iowa Code section 272C.3(2) "b," or that impairs a practitioner's ability to safely and skillfully practice the profession.

e. Failure to meet the minimum qualifications for registration as an associate appraiser or certification as a certified real property appraiser.

f. Practicing outside the scope of a residential certification, or outside the scope of a supervisor's residential certification.

7.3(6) *Negligence by the registrant or certificate holder in the practice of the profession.* Negligence by the registrant or certificate holder in the practice of the profession includes:

a. Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal.

b. A failure to exercise due care including negligent delegation of duties to or supervision of associate appraisers, or other employees, agents, or persons, in developing an appraisal, preparing an appraisal report, or communicating an appraisal, whether or not injury results.

c. Neglect of contractual or other duties to a client.

7.3(7) *Professional misconduct.*

a. A violation of any of the standards applicable to the development or communication of real estate appraisals as provided in 193F—7.2(543D).

b. Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of real estate appraising.

c. Engaging in any conduct that subverts or attempts to subvert a board investigation, or failure to fully cooperate with a disciplinary investigation of the registrant or certificate holder or with a disciplinary investigation of persons who are not registrants or certificate holders, including failure to comply with a subpoena issued by the board or to respond to a board inquiry within 30 calendar days of the date of mailing by certified mail of a written communication directed to the registrant's or certificate holder's last address on file at the board office.

d. Revocation, suspension, or other disciplinary action taken by a licensing authority of this state or another state, territory, or country. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, discipline by the board based solely on such action shall be vacated.

e. A violation of Iowa Code section 543D.18 as amended by 2007 Iowa Acts, Senate File 137, section 4 (disclosure of significant real property appraisal assistance), or Iowa Code section 543D.18(6).

f. A violation of 2007 Iowa Acts, Senate File 137, section 6 (restrictions on persons assisting in the development or reporting of a certified appraisal).

g. Failure to retain records as provided in Iowa Code section 543D.19.

h. Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

7.3(8) *Willful or repeated violations.* The willful or repeated violation or disregard of any provision of Iowa Code chapter 272C or 543D, or any administrative rule adopted by the board in the administration or enforcement of such chapters.

7.3(9) *Failure to report.*

a. Failure by a registrant or certificate holder or an applicant for a registration or certificate to report in writing to the board any revocation, suspension, or other disciplinary action taken by a licensing authority, in Iowa or any other jurisdiction, within 30 calendar days of the final action.

b. Failure of a registrant or certificate holder or an applicant for a registration or certificate to report, within 30 calendar days of the action, any voluntary surrender of a professional license to resolve a pending disciplinary investigation or action, in Iowa or any other jurisdiction.

c. Failure to notify the board of a criminal conviction within 30 calendar days of the action, regardless of the jurisdiction where it occurred.

d. Failure to notify the board within 30 calendar days after occurrence of any adverse judgment in a professional or occupational malpractice action, or settlement of any claim involving malpractice, regardless of the jurisdiction where it occurred.

e. Failure to report another registrant or certificate holder to the board for any violation listed in these rules, pursuant to Iowa Code section 272C.9(2), promptly after the registrant or certificate holder becomes aware that a reportable violation has occurred.

f. Failure to report to the board the appraiser's principal place of business and any change in the appraiser's principal place of business within 30 calendar days of such change; or failure to report to the board all other addresses at which the appraiser engages in the business of preparing real estate appraisal reports, or any change in such information, within 30 calendar days of such occurrence or change.

g. Failure of an associate appraiser or supervisor to timely respond to board requests for information, as provided in 193F—Chapter 4.

7.3(10) *Failure to comply with board order.* Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order, or other decision of the board imposing discipline.

7.3(11) *Conviction of a crime.*

a. Conviction, in this state or any other jurisdiction, of any felony offense that directly relates to the profession, or of any crime which is substantially related to the qualifications, functions, duties or practice of a person developing or communicating real estate appraisals to others. Any crime involving deception, dishonesty or disregard for the safety of others shall be deemed directly related to the practice of real property appraising. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another jurisdiction shall be conclusive evidence of the conviction. "Conviction" shall include any plea of guilty or nolo contendere, including Alford pleas, or finding of guilt whether or not judgment or sentence is deferred, withheld, or not entered, and whether or not the conviction is on appeal. If such conviction is overturned or reversed by a court of last resort, discipline by the board based solely on the conviction shall be vacated. A conviction qualifies as a felony offense if the offense is designated as a felony in the jurisdiction in which the conviction occurred, or if the offense is committed in this state, the offense would be a felony, without regard to its designation elsewhere. An offense directly relates to the profession if either:

(1) The actions taken in furtherance of an offense are actions customarily performed within the scope of practice of the profession, or

(2) The circumstances under which an offense was committed are circumstances customary to the profession.

b. Notwithstanding the foregoing, a conviction may be grounds for revocation or suspension only if an unreasonable risk to public safety exists because the offense directly relates to the duties and responsibilities of the profession.

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