

## Notice of Agency Rule-making Proposal

AGENCY: Office of Professional and Occupational Regulation, Board of Licensure for Professional Land Surveyors

CHAPTER NUMBER AND TITLE: Chapter 10 Definitions, 20 General Information, 40 Qualifications for Licensure as Land Surveyor-in-Training, 50 Qualifications for Licensure as Professional Land Surveyor, 60 Licensure by Comity, 70 Continuing Education, 90 Standards of Practice, 100 Enforcement and Disciplinary Procedures

PROPOSED RULE NUMBER (*leave blank; to be assigned by Secretary of State*):

BRIEF SUMMARY: The Board of Licensure for Land Surveyors last revised their rules in 2001 and the proposed changes update the rules to reflect current practices and changes since 2001. The proposed amendment to Chapter 10 and Chapter 20 make minor changes to update the chapter. The amendments to Chapter 40 change the required courses but does not increase the hours required to qualify for a license, and requires that work must take place under the supervision of a licensed surveyor. Chapter 40 amendments reflect that the licensure exam is no longer administered by the Board. Chapter 50 amendments incorporate language that the required hours be under the supervision of a professional surveyor and amends the rules to reflect current Board administrative practices. Chapter 60 reflects changes to the description of the examination. Chapter 70 expands the courses that meet the requirements for continuing education to include distance learning courses. Chapter 90 reflects a minor change on page one eliminating reference to another part of the rules. Chapter 100 is repealed in its entirety as unnecessary.

Date, time and location of PUBLIC HEARING (*if any*): June 26, 2018, 8:30 a.m., 76 Northern Avenue, Gardiner, Maine.

COMMENT DEADLINE: July 9, 2018

CONTACT PERSON FOR THIS FILING (*include name, mailing address, telephone, fax, TTY, e-mail*): Karen Bivins, Office of Professional and Occupational Regulation, 35 State House Station, Augusta, ME 04333, Board Administrator, (207) 624-8524, Karen.L.Bivins@maine.gov

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT (*if different*):

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES (*if any*): no change in impact

STATUTORY AUTHORITY FOR THIS RULE: 32 MRS §18212

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (*if different*):

AGENCY WEBSITE: <http://www.maine.gov/pfr/professionallicensing/professions.html>

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# Rule-Making Fact Sheet

(5 MRS §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Licensure for Professional Land Surveyors

NAME, ADDRESS, PHONE NUMBER, E-MAIL OF AGENCY CONTACT PERSON: Karen Bivins, Office of Professional and Occupational Regulation, 35 State House Station, Augusta, ME 04333, Board Administrator, (207) 624-8524, Karen.L.Bivins@maine.gov

CHAPTER NUMBER AND RULE TITLE: Chapter 10 Definitions, Chapter 20 General Information, Chapter 40 Qualifications for Licensure as Land Surveyor-in-Training, Chapter 50 Qualifications for Licensure as Professional Land Surveyor, Chapter 60 Licensure by Comity, Chapter 70 Continuing Education, Chapter 90 Standards of Practice, Chapter 100 Enforcement and Disciplinary Procedures

STATUTORY AUTHORITY: 32 MRS, Chapter 141

DATE, TIME AND PLACE OF PUBLIC HEARING: June 26, 2018, 8:30 a.m., 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: July 9, 2018, 5:00 pm

PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE: [see §8057-A(1)(A)&(C)]

To update rules to reflect current Board practices.

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? \_\_\_ YES X NO [§8056(1)(B)]

ANALYSIS AND EXPECTED OPERATION OF THE RULE: [see §8057-A(1)(B)&(D)]

The operation of the rules will not change and it is expected that no significant change in operation will result.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (including up to 3 primary sources relied upon) [see §§8057-A(1)(E) & 8063-B]

Board staff, changes testing requirements, Board expertise.

ESTIMATED FISCAL IMPACT OF THE RULE: [see §8057-A(1)(C)] None

***FOR EXISTING RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:***

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:  
[see §8057-A(2)(A)]

INDIVIDUALS, MAJOR INTEREST GROUPS AND TYPES OF BUSINESSES AFFECTED  
AND HOW THEY WILL BE AFFECTED: [see §8057-A(2)(B)]

BENEFITS OF THE RULE: [see §8057-A(2)(C)]

*Note: If necessary, additional pages may be used.*

# Economic Impact Statement

(5 M.R.S. § 8052(5-A))

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Licensure for Professional Land Surveyors

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TYPES AND NUMBER OF SMALL BUSINESSES SUBJECT TO THE RULE: The Board of Licensure for Professional Land Surveyors currently licenses the following:

License Type	# of Active Licensees
Land Surveyor	493
Land Surveyor-in-Training	67

Title 5 M.R.S § 8052(5-A) defines “small business” as businesses that have 20 or fewer employees. The program does not collect sufficient information to reliably estimate the number of licensees that are small businesses as defined in 5 M.R.S. § 8052(5-A).

PROJECTED REPORTING, RECORD-KEEPING AND OTHER ADMINISTRATIVE COSTS REQUIRED FOR COMPLIANCE WITH THE PROPOSED RULE, INCLUDING THE TYPE OF PROFESSIONAL SKILLS NECESSARY FOR PREPARATION OF THE REPORT OR RECORD: The projected reporting, record-keeping, and other administrative costs required for compliance with proposed rules are as follows.

The requirements imposed are not beyond the current requirements.

PROBABLE IMPACT ON AFFECTED SMALL BUSINESSES: Minimal.

LESS INTRUSIVE OR LESS COSTLY, REASONABLE ALTERNATIVE METHODS OF ACHIEVING THE PURPOSES OF THE PROPOSED RULE: None. The requirements reflect the Board’s judgment as to the appropriate notifications and records.





02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

360 BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS

Chapter 10: DEFINITIONS

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SUMMARY: This chapter defines specialized terms that are used in the Board's rules.

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For the purposes of these rules, unless the context otherwise indicates, the following terms have the following meanings:

§1. PRIVATE RECORDS.

"Private records" are those records other than public records which can be located in a reasonable time frame from a known source, are accessible to the licensee upon request, and may be obtained or viewed with reasonable cost.

§2. PUBLIC RECORDS.

"Public records" are those accessible at or available upon request from agencies and instrumentalities of the State of Maine, clerks of court and registers of deeds, and town offices, local officials, and public utilities.

§3. SURVEYING ORGANIZATION.

"Surveying organization" includes all professional surveying, mapping, and other land information organizations, associations or societies the purpose of which is to advance the education, professionalism, and ethics of the surveying, mapping and land information professions including, but not limited to, the ~~American Congress on Surveying and Mapping (ACSM)~~ National Society of Professional Surveyors (NSPS) (including member organizations), the Maine Society of Land Surveyors (MSLS), and analogous ~~state~~ international, national or local associations. "Surveying organization" also includes all state or national boards relating to the licensing, examination, or other regulation of surveyors.

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STATUTORY AUTHORITY: 32 MRSA §13903(2)

EFFECTIVE DATE:

December 23, 1984 (as Chapter 1, "Rules and Standards of Practice")

REPEALED AND REPLACED:

July 29, 1991 (as Chapter 1, "Definitions")

EFFECTIVE DATE (ELECTRONIC CONVERSION):

March 18, 1997

REPEALED AND REPLACED:

April 1, 2001 (as Chapter 10, "Definitions"; Chapters 1-6 repealed)

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

360 BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS

Chapter 20: GENERAL INFORMATION

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SUMMARY: This chapter establishes guidelines for meeting agendas and election of Board officers.

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§1. NOTICE OF MEETINGS

Notice of and an agenda for each meeting shall be ~~mailed~~ sent to each Board member at least seven (7) days prior to the meeting.

§2. OFFICERS

The Board shall elect or appoint its officers at its first regularly scheduled meeting of each calendar year.

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STATUTORY AUTHORITY: 32 MRSA §13903(2)

EFFECTIVE DATE:

April 1, 2001 (Chapters 1-6 repealed)



SUMMARY: This Chapter sets forth the qualifications and application process that govern applicants for licensure as a land surveyor-in-training. The conditions for licensure by comity of a land surveyor-in-training are set forth in Chapter 60.

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§1. OVERVIEW OF PATHS TO LICENSURE

Title 32 MRSA §13905 sets forth four different combinations of education and experience which, in combination with passing examination scores, will qualify an applicant for licensure as a land surveyor-in-training. These four paths to licensure are:

	Education	Experience	Examination
Path 1	Core curriculum plus baccalaureate degree	None	Fundamentals of land surveying
Path 2	Core curriculum plus associate degree	Two years	Fundamentals of land surveying
Path 3	Core curriculum, no degree	Six years	Fundamentals of land surveying
Path 4	None	Seven years	Fundamentals of land surveying

The minimum surveying core curriculum, required experience and examination are described in sections 2-4 below. The applicant may fulfill these requirements in any order.

§2. CORE CURRICULUM

The minimum surveying core curriculum consists of ~~the following~~ courses offered by an accredited college or technical school, or their equivalents, in the following topics offered by an accredited college or technical college:

- Surveying (~~3~~ 6 credit hours)
- ~~Advanced Surveying (3 credit hours)~~

- Boundary Law (3 credit hours)
- English Composition (3 credit hours)  
*For example technical writing, communication, creative writing or speech*
- Mathematics (6 credit hours)  
*For example advanced algebra, analytical trigonometry, analytical geometry, differential calculus, integral calculus, spherical trigonometry, or statistical analysis*
- ~~Advanced Communication (3 credit hours)~~  
~~technical writing, creative writing or speech~~
- Business and Law (~~3~~ 6 credit hours)  
*For example legal principles, accounting, business administration, contracts, business law, or professional ethics*
- Science (~~6~~ 3 credit hours)  
*For example physics, geology, astronomy, soils, dendrology, chemistry, biology, botany, or ecology*
- ~~Computer Usage (3 credit hours)~~  
~~computer science, computer programming, or computer assisted drafting~~

### §3. REQUIRED EXPERIENCE

#### 1. Distribution Requirement

An applicant's work experience shall include significant responsibility under the supervision of a licensed land surveyor in all the areas described in paragraph A below. Work experience may include teaching as described in paragraph B.

- A. Research, field work, computations, data analysis, plan development, drafting of written descriptions, reports and correspondence.
- B. Teaching topics in elementary or advanced surveying or the application of surveying to real property, in a curriculum acceptable to the Board.

#### 2. Work experience shall be expressed in terms of the actual amount of time spent on the job.

### §4. EXAMINATION

#### 1. ~~Description of Examination;~~

The applicant shall successfully pass an examination on the fundamentals of land surveying prepared and scored by the National Council of Examiners for Engineering and Surveying. ~~The examination shall be given, by the Board, at least twice each year.~~

~~Note: Currently, the examination is given in April and October. Additional information about the examination, testing conditions and the availability of study aids are provided to applicants by the Board.~~

~~2. Notice of Examination Results to Applicants~~

~~The Board shall notify the applicant of the applicant's score on the examination, and that:~~

~~A. The applicant passed the examination and must submit a complete application for licensure to the Board within forty eight (48) months of the examination in order for the passing score to be considered as part of the application; or~~

~~B. The applicant did not pass the examination and may re-take the examination by submitting a new Request for Examination and a new examination fee.~~

§5. SUBMISSION OF APPLICATION FOR LICENSURE

The applicant shall submit a properly completed application on forms furnished by the Board, together with:

1. Academic transcripts showing satisfaction of the degree requirements and core curriculum described in sections 1 and 2 above if applicable.
2. The application criminal background check fee and license fee.
3. A separate Verification of Employment form for each employer listed on the application. The applicant shall send the form to the employer for confirmation and transmittal to the Board if applicable.

~~§6. PRELIMINARY REVIEW OF APPLICATION~~

~~Following preliminary review of the application, the Board shall notify the applicant that:~~

- ~~1. The application is complete and will be submitted to the Board for substantive review; or~~
- ~~2. The application is incomplete. The notice shall list the information necessary to complete the application and shall also inform the applicant that failure to furnish the missing information within six (6) months of the date the application was received will result in automatic denial of the application.~~

§7. NOTICE TO APPLICANTS OF LICENSURE DECISION

Following a substantive review of the application, the Board shall notify the applicant that:

1. The applicant was found qualified for licensure as a land surveyor-in-training, and will be issued a license upon receipt of the license fee, or
  2. The applicant was found not qualified for licensure as a land surveyor-in-training. The notice shall list the reason(s) for the Board's finding. The notice shall also inform the licensee of the right to a hearing on the denial of licensure before the Board, provided that the request for hearing is received by the Board within thirty (30) days of the applicant's receipt of the notice.
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STATUTORY AUTHORITY: 32 MRSA §13903(2)

EFFECTIVE DATE:

April 1, 2001 (Chapters 1-6 repealed)

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION  
360 BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS  
Chapter 50: QUALIFICATION FOR LICENSURE AS PROFESSIONAL LAND SURVEYOR

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SUMMARY: This Chapter sets forth the qualifications and application process that govern applicants for licensure as a professional land surveyor and the use, content and size of the seal required for a professional land surveyor. The conditions for licensure by comity of a professional land surveyor are set forth in Chapter 60.

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§1. QUALIFICATIONS FOR LICENSURE

To be eligible for licensure as a professional land surveyor, the applicant must:

1. Hold a valid Maine license to act as a land surveyor-in-training or be qualified for issuance of a Land Surveyor-in-training pursuant to Chapter 60, section 1; and
2. Demonstrate twenty-four (24) months of full-time experience as a Maine land surveyor-in-training under the supervision of a licensed surveyor. An applicant's experience must include significant responsibility in all of the areas described in paragraph A below. Experience may include teaching as described in paragraph B.
  - A. Research, field work, computations, data analysis, plan development, drafting or written descriptions, reports and correspondence.
  - B. Teaching topics in elementary or advanced surveying or the application of surveying to real property, in a curriculum acceptable to the Board may not exceed 50% of the 24 months; and
3. Pass an examination in the principles and practice of land surveying.

§2. SUBMISSION OF EXAMINATION APPLICATION

The applicant shall submit a properly completed application on forms furnished by the Board, together with:

1. The ~~application~~ examination fee.
2. A separate Verification of Employment form for each employer listed on the application. The applicant shall send the form to the employer for confirmation and transmittal to the Board.



~~§3. PRELIMINARY REVIEW OF APPLICATION~~

~~Following preliminary review of the application, the Board shall notify the applicant that:~~

- ~~1. The application is complete and will be submitted to the Board for substantive review; or~~
- ~~2. The application is incomplete. The notice shall list the information necessary to complete the application and shall also inform the applicant that failure to furnish the missing information within six (6) months of the date the application was received will result in automatic denial of the application.~~

§4. NOTICE TO APPLICANTS OF ELIGIBILITY TO TAKE EXAMINATION

Following a substantive review of the application, the Board shall notify the applicant that:

1. The applicant was found qualified to sit for the ~~principles and practices of land surveying examination, and that the applicant will be informed of the date, time and place of the examination upon receipt of the examination fee~~ examination; or
2. The applicant was found not qualified to sit for the examination. The notice shall list the reason(s) for the Board's finding. The notice shall also inform the licensee of the right to a hearing on the denial before the Board, provided that the request for hearing is received by the Board within thirty (30) days of the applicant's receipt of the notice.

§5. EXAMINATIONS

1. Description of Examination;

The applicant shall successfully pass all parts of ~~a three-part~~ an examination in the principles and practice of land surveying, as summarized below. ~~The examination shall be given at least twice each year.~~

- A. ~~Part 1 is a six (6) hour~~ An ~~multiple choice, open book~~ examination prepared and scored by the National Council of Examiners for Engineering and Surveying. This examination tests competence in the professional aspects of land surveying.
- B. ~~Part 2 is a two (2) hour~~ A ~~multiple choice, open book~~ Maine specific examination prepared and scored under the direction of the Board. This examination tests surveying topics with a focus on Maine practice.



Note: ~~Part 1 is currently given in the morning and Part 2 is given in the afternoon immediately following Part 1.~~

~~C. Part 3 is a take-home essay question that is mailed to applicants approximately 30 days prior to the examination and is collected on the day of the examination. This examination tests communication, management, organization, and analytical skills which are pertinent to the practice of land surveying and Maine law.~~

Note: ~~Currently, the examination is given in April and October. Additional information about the content of the examination, testing conditions and the availability of study aids are provided to applicants by the Board~~

## 2. Minimum Passing Score

The minimum passing score for ~~Part 2 and Part 3~~ are the Maine specific examination is established by the Board.

## 3. Notice of Examination Results to Applicants

The Board shall notify the applicant of the applicant's score, and that:

- A. The applicant passed the examination and will be issued a professional land surveyor license upon receipt of the license fee and the criminal background check fee; or
- B. The applicant did not pass the examination. The notice shall identify the part(s) that the applicant did not pass, and shall inform the applicant that re-examination on the failed part(s) may be scheduled by submitting a written request for re-examination, together with the re-examination fee specified in Chapter 80 of these rules. ~~Requests for re-examination received more than eighteen (18) months after the date on which the applicant was found qualified to sit for the examination must be accompanied by a new application and a new application fee in the full amount.~~

## §6. SEALS FOR PROFESSIONAL LAND SURVEYORS

A professional land surveyor shall (a) sign and (b) seal and/or emboss every final document, including but not limited to plans, descriptions, reports, maps, plats and other drawings, with a circular seal having an outside diameter of not less than 1½ inches. The seal shall plainly set forth the following information:

1. The surveyor's full name.
2. The surveyor's license number.

3. The words "State of Maine" and "Professional Land Surveyor."
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STATUTORY AUTHORITY: 32 MRSA §§13903(2), 13907

EFFECTIVE DATE:

April 1, 2001 (Chapters 1-6 repealed)

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

360 BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS

Chapter 60: LICENSURE BY COMITY

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SUMMARY: This Chapter sets forth the conditions under which a licensee from another jurisdiction may be licensed as a land surveyor-in-training or professional land surveyor in Maine.

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§1. LICENSURE AS LAND SURVEYOR-IN-TRAINING

An applicant who holds a license, in good standing, as a Land Surveyor-in-Training, or its equivalent, issued by the applicant's resident jurisdiction shall qualify for licensure by passing the examination described in Chapter 40, section 4, provided that the applicant shall be credited with any passing score previously earned on this examination.

§2. LICENSURE AS PROFESSIONAL LAND SURVEYOR

An applicant who holds a license, in good standing, as a Professional Land Surveyor issued by the applicant's resident jurisdiction shall qualify for licensure by passing the examination described in Chapter 50, section 5, provided that the applicant shall be credited with any passing score previously earned on Part 1 of the examination prepared and scored by the National Council of Examiners for Engineering and Surveying.

§3. SUBMISSION, PROCESSING AND DISPOSITION OF APPLICATION; PAYMENT OF FEES

The provisions of Chapters 40 and 50 generally shall apply to applicants for licensure by comity.

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STATUTORY AUTHORITY: 32 MRSA §13903(1) and (2)

EFFECTIVE DATE:

April 1, 2001 (Chapters 1-6 repealed)

Chapter 70: CONTINUING EDUCATION

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**SUMMARY:** This chapter sets forth the continuing education requirement for professional land surveyors.

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**1. Applicability**

A professional land surveyor shall certify at time of license renewal to compliance with the continuing education requirement set forth in this chapter. The provisions of this chapter do not apply to a professional land surveyor 65 years of age or older who practices less than 160 hours a year, or to land surveyors-in-training.

**2. Audit**

The licensee's certification of completion of professional education is subject to audit pursuant to Chapter 13 of the rules of the Office of Professional and Occupational Regulation, entitled "Uniform Rule for the Substantiation of Continuing Education Requirements."

**3. General Requirement**

A professional land surveyor shall certify at time of license renewal to completion of ~~8~~ 12 hours of continuing education during the preceding license term as set forth in this chapter. One hour of continuing education is earned for each hour of actual instructional time, excluding breaks, meals and other non-instructional time. To be recognized for credit, a continuing education activity must be of a type described in Section 5 and must meet the content requirement set forth in Section 6.

Carryover of excess continuing education credit from one license term to another is not permitted.

**4. First License Renewal**

A licensee whose initial license is issued during the first year of the 2-year license term shall certify to completion of 4 hours of professional education during the preceding license term at time of first renewal. A licensee whose initial license is issued during the second year of the 2-year license term need not complete any continuing professional education to be eligible for a first renewal.

**5. Acceptable Types of Continuing Education Activities; Documentation Required**

~~Continuing education may be earned by participation in any of the following activities, provided that the provider or sponsor supplies to attendees or participants a certificate of attendance or completion, as the case may be, or other documentation acceptable to the board:~~

- ~~1. Live attendance at seminars, courses, instructional programs, workshops or in-service training sessions;~~

2. ~~Seminars, courses, instructional programs and workshops presented on or obtained from the internet, whether live or pre recorded;~~
3. ~~Seminars, courses and instructional programs presented on CD, DVD, thumb drive or other electronic or audiovisual media; and~~
4. ~~Courses and instructional materials presented in print format.~~

Continuing education may be earned by participation in seminars, courses, instructional programs, workshops or in-service training sessions, whether presented live or through distance education methods. The provider or sponsor of the continuing education must supply to attendees or participants a certificate of attendance or completion, as the case may be, specifying the content area, date of the activity, and the number of hours earned, or other documentation acceptable to the board.

#### 6. **Content Requirement for Continuing Education Activities**

A continuing education activity must instruct in one or more of the following content areas:

1. Topics directly related to the practice of land surveying;
2. General business administration or management relevant to the practice of land surveying;
3. Land use regulation;
4. Other related land use fields, including but not limited to civil or environmental engineering, site evaluation for septic system design, soils, landscape architecture, geology, forestry, title examination and insurance, and other legal issues related to real estate;
5. Computer application skills or programming relevant to the practice of land surveying;
6. Communication, including but not limited to speech and technical writing; and
7. ~~Compliance with the laws and rules of the board, including but not limited to the written confirmation required by Chapter 90, Section 3 of the board's rules; and~~
8. Other subject matters the understanding of which appreciably aids a land surveyor in the performance of professional duties.

#### 7. **Deferment; Waiver**

##### 1. **Deferment**

Pursuant to 10 MRSA §8003(5-A)(D)(4), the board may issue continuing education deferments in cases of undue hardship.

##### 2. **Waiver**

Continuing education is waived for certain active duty military personnel as set forth in 37-B MRSA §390-A.

STATUTORY AUTHORITY: 32 MRSA §18225

EFFECTIVE DATE:

April 1, 2001 (Chapters 1-6 repealed)

REPEALED AND REPLACED:

June 2, 2014 – filing 2014-104



02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

360 BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS

Chapter 90: STANDARDS OF PRACTICE

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

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~~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.

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STATUTORY AUTHORITY: 32 MRSA §13903(2)

EFFECTIVE DATE:

April 1, 2001 (Chapters 1-6 repealed)

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

360 BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS

Chapter 100: ~~ENFORCEMENT AND DISCIPLINARY PROCEDURES~~

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~~SUMMARY: This chapter describes the procedure by which complaints and investigations will be handled by the Board.~~

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~~§1. COMPLAINT OFFICER~~

~~The Complaint Officer shall be responsible for investigating complaints and presenting them to the Board.~~

~~§2. PROCESSING OF COMPLAINTS~~

~~The Board will follow the procedure for initiating and processing complaints set forth in the Standard Complaint Procedure of the Office of Licensing and Registration, Department of Professional and Financial Regulation, a copy of which is available upon request from the Board.~~

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STATUTORY AUTHORITY: 32 MRSA §13903(2)

EFFECTIVE DATE:

April 1, 2001 (Chapters 1-6 repealed)