



STATE OF MAINE
DEPARTMENT OF PROFESSIONAL
AND FINANCIAL REGULATION
BOARD OF REAL ESTATE APPRAISERS
35 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0035

Janet T. Mills
Governor

Anne L. Head
Commissioner

**Public Rulemaking Hearing
Tuesday, November 7, 2023
AGENDA**

Location: Maine Department of Professional and Financial Regulation
Gardiner Annex- 76 Northern Avenue, Gardiner, Maine

Room: Central Conference Room

Time: 9:00 a.m.

Contact: Shara Chesley- 207-624-8521 or Shara.Chesley@maine.gov

Option for Virtual Attendance by the Public:

In addition, though not required by law, this meeting is being made virtually available using the Zoom platform to members of the public who do not attend in-person. A link for the public to access the Board of Real Estate Appraisers meeting virtually will be posted on the Real Estate Appraisers Board website at:

<https://www.maine.gov/pfr/professionallicensing/professions/board-real-estate-appraisers/home/board-meeting-information>

The Board of Real Estate Appraisers expects that members of the public who attend the meeting virtually will be able to provide public comment to the same extent as members of the public who attend in-person.

I. CALL TO ORDER

II. AGENDA MODIFICATIONS

III. MINUTES REVIEW AND APPROVAL

Review and approval of October 3, 2023 Minutes

IV. PUBLIC RULEMAKING HEARING

- Chapter 230: Supervisory Appraiser Duties
- Chapter 240: Standards of Professional Practice

V. COMPLAINT PRESENTATIONS

2023-REA-19142

2023-REA-19415

2023-REA-19473

VI. CONSENT AGGREMENTS

2022-REA-18447
2022-REA-18756
2022-REA-18069

VII. ADMINISTRATOR’S REPORT

- A. Agency Bill, An Act to Amend the Laws Governing Real Estate Appraisers and Appraisal Management Companies
- B. Communication – Robert Strong

VIII. PUBLIC COMMENT

Under this item, the Board will offer an opportunity to members of the public in attendance to comment on any public matter under the jurisdiction of the Board, except for any open application or complaint. While the Board cannot take action on any issues presented, the Board will listen to comments and may ask staff to place the issue on a subsequent agenda. At the discretion of the Board Chair, a time limit on comments may be set.

IX. MEETING SCHEDULE

Next meeting scheduled for Tuesday-December 5, 2023

X. ADJOURNMENT

DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
OFFICE OF PROFESSIONAL AND OCCUPATIONAL REGULATION
221 State Street, Augusta, Maine

MAINE BOARD OF REAL ESTATE APPRAISERS
BOARD MEETING
October 3, 2023
MINUTES

<u>MEMBERS PRESENT</u>	<u>STAFF PRESENT</u>
Wendy Boston, Chair	Cathy Pendergast, Administrator
Nathan Shipley, Vice-Chair	John Belisle, Assistant Attorney General
Alan Johnson, Complaint Officer	Regina Ritchie, Professional Licensing Supervisor
Russell Barrows	Shara Chesley, Office Specialist I
Jacques Weinstein	Jen Maddox, Board Clerk
<u>MEMBERS ABSENT</u>	<u>OTHERS PRESENT</u>
None	None

Location: 221 State Street, Augusta, ME **Start:** 9:21 a.m. **Adjourn:** 11:10 a.m.

I. CALL TO ORDER

The meeting was called to order by the Chair at 9:21 a.m.

II. AGENDA MODIFICATIONS

None.

III. MINUTES REVIEW AND APPROVAL

A motion was made by Weinstein and seconded by Johnson to approve the August 1, 2023 minutes as presented. Unanimous.

IV. COMPLAINT PRESENTATIONS

2023-REA-18737 – A motion was made by Barrows and seconded by Weinstein to set the matter for hearing and offer a consent agreement for violation of USPAP standards Rule 1.1a,b,c; 1.2 h; 1.3a(i),(iv); 1.4(a);(b)(1),(3); and 2.1(h)(v). Agreement includes a Warning, probation in which licensee will submit a log of appraisals within 30 days that were completed following completion of previous consent agreement CLE; licensee to submit copies of 4 appraisal reports and workfiles selected by complaint committee officer within 14 days of being requested; and board officer's acceptance of 4 USPAP compliant reports. Licensee's failure to timely submit will result in automatic suspension of his license until he complies with submission. Shipley, Barrows and Weinstein voted in favor. Boston recused. Johnson abstained. Motion carried.

2023-REA-19093 – A motion was made by Shipley and seconded by Barrows to set the matter for hearing and offer a consent agreement for violation of USPAP standards Rule 1.1-a,b,c; Standard 1.2 e,h; Standard 1.4 a,b; Standard 1.6; Standard 2.1 a, 2.2 b(xii)(1)(3); Scope of Work Rule and Ethics Rule. Agreement includes completion of the 15 Hour National USPAP Course, 15 hour Residential Market Analysis and Highest and Best Use and 15 hour Residential Appraiser Site Valuation and Cost Approach courses with examinations completed within 90 days of effective date of consent agreement and cannot be used for continuing education for license renewal. Shipley, Barrows, Weinstein and Boston voted in favor. Johnson abstained.

V. ADMINISTRATOR'S REPORT

Application – A motion was made by Johnson and seconded by Barrows to issue a license to applicant. Unanimous.

AI State Regulatory Advisory Group Virtual Meeting Highlights - Administrator shared highlights of the meeting including the topics of valuation bias, the USPAP Update Course and PAREA.

VI. PUBLIC COMMENT

None.

VII. MEETING SCHEDULE

The next meeting is currently scheduled for Tuesday, November 7, 2023.

VIII. ADJOURN

A motion was made by Barrows and seconded by Johnson to adjourn the meeting. Unanimous.
Being no further board business, the meeting was adjourned at 11:10 a.m.

DRAFT

Chapter 230: ~~SUPERVISING~~SUPERVISORY APPRAISER DUTIES

SUMMARY: This rule establishes the ~~supervisory~~ responsibilities ~~for of~~ a certified residential or certified general real property appraiser who supervises a trainee real property appraiser.

1. Commencement and Termination of Supervisory Relationship

A certified residential or certified general real property appraiser shall notify the board in writing of the commencement or termination of a supervisory relationship with a trainee real property appraiser no later than ten (10) days after the commencement or termination of the supervisory relationship.

2. Duties

1. A. ~~— A supervising supervisory~~ appraiser is responsible for the training, guidance and direct supervision of the trainee real property appraiser, including:

- A. 1. ~~—~~ Accepting responsibility for ~~the any~~ appraisal ~~report~~reports drafted by the trainee real property appraiser, by signing and certifying that ~~the any such~~ report is in compliance with the Uniform Standards of Professional Appraisal Practice;
- B. 2. ~~—~~ Reviewing with the trainee real property appraisal report(s); and supporting workfile documents, when necessary; and
- C. 3. ~~—~~ Personally inspecting each appraised property with the trainee real property appraiser until the ~~supervising~~supervisory appraiser determines the trainee is competent in accordance with the Competency Rule of the Uniform Standards of Professional Appraisal Practice for the property type. The ~~supervising~~supervisory appraiser shall make this determination of competency in writing on a form provided by the board and shall submit the determination to the board no later than ten (10) days thereafter.

~~B.~~ ~~—~~

2. ~~Records and Reporting~~

- A. 1. ~~—~~ The ~~supervising~~supervisory appraiser shall maintain accurate, up-to-date records of all the ~~trainee's~~trainee real property appraiser's activities ~~and, including~~ a schedule of hours of work completed. For any appraisal listed on a trainee appraiser's experience log, a supervisory appraiser must provide a copy of, or access to, any appraisal report and associated workfile documents in their custody and control to the board upon request.

B. ~~2.~~ No later than the fifteenth (15th) day of each month, a ~~supervisingsupervisory~~ appraiser shall complete, sign and submit ~~a report an appraisal experience log~~ to the board with respect to each trainee under ~~the appraiser's their~~ supervision. The monthly ~~report~~log shall be made on a form prescribed by the Board and must contain all information required by Section 2(2)(F) of this Chapter. The board retains discretion to reject an experience log if it is incomplete or untimely submitted.

C. Trainee real property appraisers will not receive experience credit for appraisals reports that are not signed by the supervisory appraiser.

D. Trainee real property appraisers must be identified in the appraisal certification and scope of work for reports the trainee did not sign to be eligible for experience credit.

E. Separate appraisal logs shall be maintained by the supervisory appraiser for each trainee real property appraiser under their supervision, if applicable.

B-F. Experience logs shall, at a minimum, include the following information for the preceding calendar month:

a. (1) Type of property appraised;

b. (2) Whether the ~~supervisingsupervisory~~ appraiser personally inspected the property with the trainee;

c. (3) Client name and address;

d. (4) Address of appraised property;

e. (5) Description of work performed; ~~and by the trainee real property appraiser and the scope of the review and supervision of the Supervisory Appraiser;~~

f. (6) Number of work hours;

(7) Date of appraisal report; and

(8) The signature and board license number of the supervisory appraiser.

G. If the trainee ~~real property appraiser trainee~~ performed no reportable work, the monthly ~~report~~experience log shall so indicate.

3. Grounds for Discipline

In addition to the grounds enumerated in 10 M.R.S. § 8003(5-A)(A) and 32 M.R.S. § 14014-A, the Board may impose discipline on a supervisory appraiser for failure to execute their duties in accordance with this Chapter.

STATUTORY AUTHORITY:

32 M.R.S. §§ 14012, ~~1427~~14038, 14039

EFFECTIVE DATE:

~~September 18, 1999~~ filing 99-374

~~REPEALED AND REPLACED:~~

~~January 1, 2008~~ filing 2007-466

~~September 18, 2022~~ filing 2022-179

Chapter 240: STANDARDS OF PROFESSIONAL PRACTICE

SUMMARY: This chapter establishes the Uniform Standards of Professional Appraisal Practice as the ~~standards~~standard of practice for licensees and requires licensees to display their signature and license number on certifications of appraisals performed.

~~Section 1.~~ Uniform Standards of Professional Practice

~~Licensees~~Except as set forth in 32 M.R.S. § 14011(7), licensees shall comply with generally accepted standards of professional practice as established by the Uniform Standards of Professional Appraisal Practice ("USPAP"). ~~For purposes of this section, licensees must comply with the 2020-2021 edition of USPAP effective January 1, 2020.~~2024 Edition. The Board hereby incorporates ~~this edition of USPAP~~the Uniform Standards of Professional Appraisal Practice ("USPAP"), 2024 Edition, Copyright © 2024, The Appraisal Foundation, effective January 1, 2024, into this chapter by reference. Copies of the ~~2020-2021~~2024 edition may be obtained, at cost, from The Appraisal Foundation, ~~Distribution~~Publication Fulfillment Center, P.O. Box 381, Annapolis Junction, MD 20701-0381. The web site is <http://www.appraisalfoundation.org/>.

~~Section 2.~~ Use of License Number

Any person licensed by the Board must display that person's signature and license number on the certification of any appraisal performed in this State. The license number shall include the two (2) letter prefix identifying the type of license held.

STATUTORY AUTHORITY:

32 M.R.S. ~~Chapter 124, §§~~ 14012(3)

EFFECTIVE DATE:

~~September 18, 1999~~

~~AMENDED:~~

~~May 29, 2000~~

~~April 10, 2001~~

~~January 1, 2002~~

~~February 8, 2003 filing 2003-40~~

~~December 23, 2003 filing 2003-473~~

~~NON-SUBSTANTIVE CORRECTIONS:~~

~~February 20, 2004 restored web site address in Section 1~~

~~AMENDED:~~

~~December 21, 2004 filing 2004-584~~

~~June 18, 2006 filing 2006-259~~

~~December 22, 2007 filing 2007-527~~

~~January 1, 2010 filing 2009-704~~

~~January 1, 2012 filing 2011-406~~

~~January 1, 2014 filing 2013-297~~

January 1, 2016 filing 2015-245
August 29, 2018 filing 2018-170
January 20, 2020 filing 2020-010__

Chapter 230: SUPERVISORY APPRAISER DUTIES

SUMMARY: This rule establishes the responsibilities of a certified residential or certified general real property appraiser who supervises a trainee real property appraiser.

1. Commencement and Termination of Supervisory Relationship

A certified residential or certified general real property appraiser shall notify the board in writing of the commencement or termination of a supervisory relationship with a trainee real property appraiser no later than ten (10) days after the commencement or termination of the supervisory relationship.

2. Duties

1. A supervisory appraiser is responsible for the training, guidance and direct supervision of the trainee real property appraiser, including:

- A. Accepting responsibility for any appraisal reports drafted by the trainee real property appraiser, by signing and certifying that any such report is in compliance with the Uniform Standards of Professional Appraisal Practice;
- B. Reviewing with the trainee real property appraisal report(s) and supporting workfile documents, when necessary; and
- C. Personally inspecting each appraised property with the trainee real property appraiser until the supervisory appraiser determines the trainee is competent in accordance with the Competency Rule of the Uniform Standards of Professional Appraisal Practice for the property type. The supervisory appraiser shall make this determination of competency in writing on a form provided by the board and shall submit the determination to the board no later than ten (10) days thereafter.

2. Records and Reporting

- A. The supervisory appraiser shall maintain accurate, up-to-date records of all the trainee real property appraiser's activities, including a schedule of hours of work completed. For any appraisal listed on a trainee appraiser's experience log, a supervisory appraiser must provide a copy of, or access to, any appraisal report and associated workfile documents in their custody and control to the board upon request.
- B. No later than the fifteenth (15th) day of each month, a supervisory appraiser shall complete, sign and submit an appraisal experience log to the board with respect to each trainee under their supervision. The monthly log shall be made on a form prescribed by the Board and must contain all information required by Section

2(2)(F) of this Chapter. The board retains discretion to reject an experience log if it is incomplete or untimely submitted.

- C. Trainee real property appraisers will not receive experience credit for appraisals reports that are not signed by the supervisory appraiser.
- D. Trainee real property appraisers must be identified in the appraisal certification and scope of work for reports the trainee did not sign to be eligible for experience credit.
- E. Separate appraisal logs shall be maintained by the supervisory appraiser for each trainee real property appraiser under their supervision, if applicable.
- F. Experience logs shall, at a minimum, include the following information for the preceding calendar month:
 - (1) Type of property appraised;
 - (2) Whether the supervisory appraiser personally inspected the property with the trainee;
 - (3) Client name and address;
 - (4) Address of appraised property;
 - (5) Description of work performed by the trainee real property appraiser and the scope of the review and supervision of the Supervisory Appraiser;
 - (6) Number of work hours;
 - (7) Date of appraisal report; and
 - (8) The signature and board license number of the supervisory appraiser.
- G. If the trainee real property appraiser trainee performed no reportable work, the monthly experience log shall so indicate.

3. Grounds for Discipline

In addition to the grounds enumerated in 10 M.R.S. § 8003(5-A)(A) and 32 M.R.S. § 14014-A, the Board may impose discipline on a supervisory appraiser for failure to execute their duties in accordance with this Chapter.

STATUTORY AUTHORITY:

32 M.R.S. §§ 14012, 14038, 14039

EFFECTIVE DATE:

Chapter 240: STANDARDS OF PROFESSIONAL PRACTICE

SUMMARY: This chapter establishes the Uniform Standards of Professional Appraisal Practice as the standard of practice for licensees and requires licensees to display their signature and license number on certifications of appraisals performed.

1. Uniform Standards of Professional Practice

Except as set forth in 32 M.R.S. § 14011(7), licensees shall comply with generally accepted standards of professional practice as established by the Uniform Standards of Professional Appraisal Practice (“USPAP”), 2024 Edition. The Board hereby incorporates the Uniform Standards of Professional Appraisal Practice (“USPAP”), 2024 Edition, Copyright © 2024, The Appraisal Foundation, effective January 1, 2024, into this chapter by reference. Copies of the 2024 edition may be obtained, at cost, from The Appraisal Foundation, Publication Fulfillment Center, P.O. Box 381, Annapolis Junction, MD 20701-0381. The web site is <http://www.appraisalfoundation.org/>.

2. Use of License Number

Any person licensed by the Board must display that person’s signature and license number on the certification of any appraisal performed in this State. The license number shall include the two (2) letter prefix identifying the type of license held.

STATUTORY AUTHORITY:

32 M.R.S. § 14012(3)

EFFECTIVE DATE:

Maine Board of Real Estate Appraisers
35 State House Station
Augusta, ME 04333
Phone: (207) 624-8518
Email: catherine.pendergast@maine.gov

**Department of
Professional &
Financial Regulation**

To: Board Members
From: Catherine E. Pendergast
Date: October 25, 2023
Subject: Agency bill, LR# 2699 – An Act to Amend the Laws Governing
Real Estate Appraisers and Appraisal Management Companies

The Office of Professional and Occupational Regulation (OPOR) submitted a bill for the Second Session of the 131st Legislature to update, correct and clarify sections of the appraiser and appraisal management company statutes. Two errors were noted in the Board's 2022 ASC Off-Site Assessment. This bill corrects those errors, addresses an outdated USPAP reference and clarifies that a supervisory appraiser is required to have held a license in any jurisdiction for three years, not in Maine for three years.

This is not the final version of the bill as it has been returned to the Revisor's office and will later be printed with other bills during the session.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 32 MRSA §14011, sub-§7, as enacted by PL 2011, c. 286, Pt. L, §1, is amended to read:

7. Exemption from standard. The following are exempt from the requirements of the Uniform Standards of Professional Appraisal Practice, ~~Standard 3 (2011)~~:

A. A board member serving in the capacity of assigned complaint officer while performing an investigation or testifying at an adjudicatory hearing;

B. A board member serving in the capacity of reviewer while reviewing the work experience of an applicant for licensure; and

C. An investigator employed by or retained by the department while performing an investigation or testifying at an adjudicatory hearing.

Sec. 2. 32 MRSA §14039, sub-§2, as enacted by PL 2013, c. 547, §18 and affected by §19, is amended to read:

2. Certified level license required. A certified general real property appraiser or certified residential real property appraiser who has held a license in any jurisdiction for a minimum of 3 years and within the last 3 years has not had a license suspended or revoked or been subject to other disciplinary action that limits the licensee's legal eligibility to perform real estate appraisal activity may supervise a trainee real property appraiser.

Sec. 3. 32 MRSA 14042, sub-§4, as enacted by PL 2017, c. 270, §1, and reenacted by PL 2017, c. 475, §D-1, is amended to read:

4. Appraisal management service. "Appraisal management service" means:

- A. Recruiting, selecting and retaining appraisers;
- B. Contracting with appraisers to perform appraisal assignments;
- C. Managing the process of having an appraisal performed, including, but not limited to:
 - (1) Providing administrative services;
 - (2) Receiving appraisal orders and appraisal reports;
 - (3) Submitting completed appraisal reports to creditors and secondary market participants;
 - (4) Collecting fees from creditors and secondary market participants for services provided; ~~and or~~
 - (5) Paying appraisers for services performed; and
- D. Reviewing and verifying the work of appraisers.

Sec. ~~4~~ 3. 32 MRSA §14042, sub-§18, as reenacted by PL 2017, c. 475, Pt. D, §1, is amended to read:

18. Federally regulated appraisal management company. "Federally regulated appraisal management company" means an appraisal management company that is owned and controlled by an insured depository institution, as defined in 12 United States Code, Section 1813 and regulated by the federal Office of the Comptroller of the Currency; ~~Office of the Inspector General~~, the Board of Governors of the Federal Reserve System; or the Federal Deposit Insurance Corporation.

SUMMARY

This bill amends the laws governing the Board of Real Estate Appraisers to exempt a board member from all parts of the Uniform Standards of Professional Appraisal Practice when executing duties as a board member to review complaints and the work experience of an applicant for licensure and an investigator employed by or retained by the Department of Professional and Financial Regulation while performing an investigation or testifying at an adjudicatory hearing. The bill also clarifies that a supervisory real property appraiser

34 may have been licensed in any jurisdiction for at least 3 years to qualify to supervise a
35 trainee real property appraiser. Finally, the bill amends the definition of "federally
36 regulated appraisal management company" to remove the federal Office of the Inspector
37 General as a regulating authority.

DRAFT DRAFT DRAFT Page 1 -**131LR2699(01)** DRAFT DRAFT DRAFT

Good morning,

I want to bring it to the public's attention that the Board Administrator, Ms. Pendergast, sent a very thorough letter to myself, The Maine Association of Realtors, The Maine Bankers Association, The Maine Credit Union League, and the Maine Association of Mortgage Professionals in August. Each letter shared a likeness to the others. There is one small provision in those letters that I'd like to bring to the board's attention. Ms. Pendergast made the following statement in that letter: Pursuant to Maine Revised Statute Title 32, Chapter 124 ss 14011 (section 7), reviewers of these selected appraisals are "explicitly exempt from the requirements of USPAP." We've had this statement reviewed by attorneys, USPAP instructors, and other Academics; all agreed that the assertion is not consistent with the cited statute. According to the statute, reviewers and complaint officers are only exempt from Standard 3 (USPAP 2011). All of those consulted were of the opinion that the remainder of USPAP applies in your duties as board members.

I would like to cordially request that the board seek advice from external resources on this matter. If the board feels strongly that you are not required to follow USPAP in its entirety, I think we should all consider verification from the Appraisal Subcommittee and/or The Appraisal Foundation to obtain a more unified opinion.

We appreciate all that you do and for your consideration on this subject matter.

Bob Strong