Professional Ethics for the Surveyor

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*Ethics are defined as:

The Science of Morals, Moral Principles or Code

* Oxford English Dictionary
“Moral”

Defined as the standard of conduct respected by good men independently of positive law and religion.
Many have attempted to define ethics in their own context whether business, organizational, political, personal or professional.
We are going to talk about Professional Ethics.
A good definition of professional ethics is: “Giving of one’s best to ensure that clients’ interests are properly cared for, but in doing so the wider public interest is also recognized and respected.”

- Howard Land FRICS
There are five basic assumptions that underpin the understanding of ethics often for professionals.
Professional Ethics is a Process

Ethics are not a fixed text to be learned once. Ethics are a way of reviewing behavior against constantly changing standards. What may be ethical today, or in a particular society, may be viewed differently by others or at another time.
Human Behavior is Caused

There is a motive for all human behavior, e.g., financial gain, power, compassion.
The equivalent of Newton’s Third Law of Physics –

”Every force has an equal and opposite reaction.”
This is influenced by a variety of factors including published codes and statements.
We are each susceptible to the actions of others, and the way we are treated depends on how we treat others. Respect is not a right and must be earned.
Core Values of Professional Ethics
Act Honorably

Never put your own gain above the welfare of your clients or others to whom you have a professional responsibility. Always consider the wider interests of society in your judgments.
Be trustworthy in all that you do—never deliberately mislead, whether by withholding or distorting information.
Be Open and Transparent in Your Dealings

Share the full facts with your clients, making things as plain and intelligible as possible.
Be Accountable for Your Actions

Take full responsibility for your actions and don’t blame others if things go wrong.
Be aware of the limits of your competence and don’t be tempted to work beyond these. Never commit to more than you can deliver.
Give clear and appropriate advice. Never let sentiments or your own interests cloud your judgment.
Always Treat Others With Respect

Never discriminate against others.
Set A Good Example

Remember that both your public and private behavior could affect your own, and other surveyor’s reputations.
Have the Courage to Make a Stand

Be prepared to act if you suspect a risk to safety or malpractice of any sort.
Avoid any action, illegal or litigious, that may bring the profession into disrepute.
Avoid Conflicts of Interest

Declare any potential conflicts of interest, personal or professional, to all relevant parties.
Maintain the confidentiality of your clients’ affairs. Never divulge information to others unless it is necessary.
North Dakota
Rules of
Professional Conduct

ARTICLE 28-03.1
In order to establish and maintain a high standard of integrity, skills, and practice in the profession of engineering and land surveying, the code of ethics contained in this chapter is binding upon every person holding a certificate of registration as a professional engineer or professional land surveyor, and upon all agents, employees, officers, or partners.

This chapter is specifically designed to further safeguard the life, health, property, and public welfare of the citizens of North Dakota, and must be construed to be a reasonable exercise of the police power vested in the board of registration for professional engineers and land surveyors by virtue of North Dakota Century Code chapter 43-19.1, and as such the board can establish conduct, policy, and practices to be adopted.

These rules are to be read and interpreted without regard to race, creed, or sex.
28-03.1-01-01. General statement (con’t)

The engineer or land surveyor who holds a certificate of registration from the board is charged with having knowledge of the existence of this chapter for professional conduct as an engineer or land surveyor, and also must be deemed to be familiar with the provisions and to understand them. Such knowledge shall encompass the understanding that the practice of engineering and land surveying is a privilege as opposed to a right, and the engineer or land surveyor must be forthright and candid in statements or written responses to the board or its representatives on matters pertaining to professional conduct.
Registrants shall be guided in all their professional relations by the highest standards of integrity. The registrant will act in professional matters as a faithful agent or trustee for each client or employer.

1. Registrants shall admit and accept their own errors when proven wrong and refrain from distorting or altering the facts in an attempt to justify their decisions.

2. Registrants shall advise their clients or employers when they believe a project will not be successful.

3. Registrants shall not accept outside employment to the detriment of their regular work or interest. Before accepting any outside engineering or land surveying employment, registrants shall notify their employer.

4. Registrants shall not employ or attempt to employ an individual by false or misleading pretenses.
5. Registrants shall not engage in any act tending to promote their own interests to the detriment of the profession.

6. Registrants shall be truthful in professional reports, statements, or testimony. Registrants shall include all relevant and pertinent information in such reports, statements, or testimony.

7. Registrants shall not willfully engage in any conduct or practice that intentionally deceives the public.

8. Registrants shall not use statements containing a material misrepresentation of fact or omitting a material fact necessary to keep statements from being misleading or statements intended or likely to create an unjustified expectation.
registrants shall be cognizant that their first and foremost responsibility is to the public welfare in the performance of services to clients and employers. The registrant:

1. Will regard one's duty to the public welfare as paramount.

2. Will not complete, sign, or seal plans or specifications that are not of a design safe to the public health and welfare and in conformity with accepted standards. In the course of work on a project, if a registrant becomes aware of an action taken by the client or employer against the registrant's advice that violates applicable state or municipal laws and regulations and which, in the registrant's judgment, will adversely affect the public life, health, or safety, the registrant shall take the following actions:
28-03.1-01-04. Protection of public (con’t)

a. Advise the client or employer in writing of the registrant's refusal to consent to the decision and give reasons for that refusal; and

b. If the registrant's advice is ignored despite the objection, the registrant shall provide a copy of the registrant's objection and reasoning to the public official charged with the enforcement of the applicable state or municipal laws and regulations.
Registrants shall not falsify or permit misrepresentation of their, or their associates', academic or professional qualifications. They shall not misrepresent or exaggerate their degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the advertisement shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or past accomplishments with the intent and purpose of enhancing their qualifications and their work.
Registrants shall express a professional opinion publicly only when it is founded upon an adequate knowledge of the facts and a competent evaluation of the subject matter.

1. Registrants shall not willfully engage in any conduct or practice that deceives the public.

2. Registrants shall not use statements containing a material misrepresentation of fact or omitting a material fact.

3. Registrants shall express an opinion only when it is founded upon accurate information.

4. The registrant shall be completely objective and truthful in all professional reports, statements, or testimony. Registrants shall include all relevant and pertinent information in such reports, statements, or testimony.
5. The registrant, when serving as an expert or technical witness 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 the testimony.

6. The registrant will issue no statements, criticisms, or arguments on professional matters connected with public policy that are inspired or paid for by an interested party or parties, unless such statement is prefaced with a comment explicitly identifying the registrant, by disclosing the identity of the party or parties on whose behalf the statement is being made, and by revealing the existence of any pecuniary interest the registrant may have in the instant matter.
The registrant will undertake assignments for which the registrant will be responsible only when qualified by education or experience. The registrant will engage, or advise engaging, experts and specialists whenever the client's or employer's interests are best served by such service.

1. The registrant may accept an assignment requiring education, training, or experience outside of the registrant's own field of competence, but only to the extent that such services are restricted to those phases of the project in which the registrant is qualified. All other phases of such project shall be performed by qualified associates, consultants, or employees.
2. The registrant shall not affix the registrant's signature or seal, or both, to any plan or document dealing with subject matter in which the registrant lacks competence acquired through education or experience, nor to any plan or document not prepared by the registrant or under the registrant's responsibility. In the event a question as to the competence of a registrant to perform a professional assignment in a specific technical field arises and cannot be otherwise resolved to the satisfaction of the board, the board, upon request of the registrant or by its own volition, may require the registrant to submit to whatever examination it deems appropriate.

3. In providing services, the registrant shall take into account all applicable federal, state, and local laws and regulations. The registrant shall not knowingly provide services resulting in violation of such laws and regulations.
28-03.1-01-09. Disclosure of confidential information.

 Registrants shall not disclose confidential information concerning the business affairs or technical processes of any present or former client or employer without the client's or employer's consent.

1. Registrants in the employ of others, without the consent of all interested parties, shall not enter promotional efforts or negotiations for work or make arrangements for other employment as a principal or to practice in connection with a specific project for which the registrant has gained particular and specialized knowledge.

2. Without the consent of all interested parties, registrants shall not participate in or represent an adversary interest in connection with a specific project or proceeding in which the registrant has gained particular specialized knowledge on behalf of a former client or employer.
Registrants shall make full prior disclosures to their employers or clients of all known or potential conflicts of interest that could influence or appear to influence their judgment or the quality of their services.

1. If the employer or client objects to such an association or financial interest, the registrant shall either terminate the association or interest or offer to give up the employment.

2. Registrants serving as members, advisors, or employees of a governmental body or department, who are the principals or employees of a private concern, shall not participate in decisions with respect to professional services offered or provided by said concern to the governmental body that they serve.
3. Registrants shall not solicit or accept a professional contract from a governmental body on which a principal or officer of their organization serves as a member.

4. A registrant shall not accept employment when duty to the client or the public would conflict with the personal interest of the registrant or the interest of another client and would influence the registrant's judgment or the quality of the registrant's services.
28-03.1-01-11. Compensation from other parties.

The registrant will not accept compensation, financial or otherwise, from more than one interested party for the same service. The registrant:

1. Will not accept financial or other considerations, including free engineering designs or land surveying plans, from material or equipment suppliers for specifying their product.

2. Will not accept commissions or allowances, directly or indirectly, from contractors or other parties dealing with the registrant's clients or employer in connection with work for which the engineer or land surveyor is responsible.

3. Shall not solicit or accept gratuities, gifts, travel, lodging, loans, entertainment, or other favors, directly or indirectly, from contractors, their agents, or other third parties dealing with a client or employer in connection with work for which the registrant is responsible, which can be determined to be an effort to improperly influence the registrant's professional judgment. Minor expenditures such as advertising trinkets, novelties, and meals are excluded. Neither shall a registrant make any such improper offer.
A registrant shall seek and engage in only the professional work or employment the professional is competent and qualified to perform by reason of education, training, or experience.

1. A registrant shall not falsify or misrepresent the extent of the registrant's education, training, experience, or qualifications to any person or to the public or misrepresent the extent of the registrant's responsibility in connection with any prior employment or projects.

2. A registrant shall not transmit, distribute, or publish or allow to be transmitted, distributed, or published, any false or misleading information regarding the registrant's own qualifications, training, or experience or that of the registrant's employer, employees, associates, or joint venturers.

3. Registrants shall not offer, give, solicit, or receive, either directly or indirectly, any political contribution in an amount intended to influence the award of a contract by public authority, or which may be reasonably construed by the public of having the effect or intent to influence the award of a contract.
4. Registrants shall not pay a commission, percentage, or brokerage fee in order to secure work except to a bona fide employee.

5. A registrant shall not tender any gift, pay, or offer to pay, directly or indirectly, anything of substantial value, whether in the form of a commission or otherwise, as an inducement to secure employment. A registrant is not prohibited from paying a commission to an employment agency for securing a position.

6. A registrant shall not knowingly seek or accept employment for professional services for an assignment for which another registrant is employed or contracted to perform. This prohibition shall not preclude a registrant from responding to a client-initiated or owner-initiated solicitation.
A registrant who has knowledge or reasonable grounds for believing that another registrant has violated any statute or rule regulating the practice of the profession shall have the duty of presenting such information to the board.

1. A registrant possessing knowledge of a violation shall report such knowledge to the board in writing and shall cooperate with the board in furnishing such further information or assistance as it may require.

2. A registrant, when questioned concerning any alleged violation on the part of another person by any member or authorized representative of the board commissioned or delegated to conduct an official inquiry, shall neither fail nor refuse to divulge such information as the registrant may have relative thereto.
3. Registrants must notify the board within thirty days if another state has disciplined them with a reprimand, censure, suspension, temporary suspension, probation, revocation, or refusal to renew a license, or if they have voluntarily surrendered their license as part of a settlement proceeding.

4. If a registrant, during the course of the registrant's work, discovers a material discrepancy, error, or omission in the work of another registrant, which may impact the life, health, property, and welfare of the public, the discoverer shall make a reasonable effort to inform, in writing, the registrant whose work is believed to contain the discrepancy, error, or omission. Such communication shall reference specific codes, standards, or physical laws that are believed to be violated and identification of documents that are believed to contain the discrepancies. The registrant whose work is believed to contain the discrepancy shall respond in writing within thirty calendar days to any question about the work raised by another registrant. Failure to respond on the part of the registrant whose work is believed to contain the discrepancy shall be considered a violation of these rules. The discoverer shall notify the board in the event a response satisfactory to the discoverer is not obtained within thirty days.
28-03.1-01-14. Professional relationships.

The registrant shall not knowingly associate professionally with or allow the use of one's name with persons not legally qualified to render the professional services for which the association is intended.

1. Registrants in private practice shall not review the work of another registrant for the same client, except with the knowledge of such registrant, or unless the connection of such registrant with the work has been terminated. This prohibition shall not preclude a registrant from responding to a client-initiated or owner-initiated solicitation for a second opinion.

2. Registrants in governmental, industrial, or educational employment may review and evaluate the work of other registrants when so required by their employment duties.

3. Registrants in sales or industrial employment may make engineering comparisons of represented products with products of other suppliers.
4. Registrants shall not use association with a non-registrant, a corporation, or partnership, as a cloak for unethical acts.

5. The registrant shall not furnish limited services in such a manner as to enable unregistered persons to evade:
   a. Federal, state, and local laws and regulations, including building permit requirements; or
   b. Registration requirements.

6. The registrant may not take over, review, revise, or sign or seal drawings or revisions thereof when such plans are begun by persons not properly registered and qualified or do any other act to enable either such persons or the project owners, directly or indirectly, to evade the registration requirements.
Ethics Case Studies

“Ethical or Not”

Let’s Examine Some Special Cases
Duty of Loyalty of Terminated Employed Engineer to Employer

Facts:

- Engineer A worked for Engineer B.
- On November 15th of some year, Engineer B notified Engineer A that Engineer B was going to terminate Engineer A because of lack of work.
- Engineer A thereupon notified clients of Engineer B that Engineer A was planning to start another engineering firm and would appreciate being considered for future work.
- Meanwhile, Engineer A continued to work for Engineer B for several additional months after the November termination notice.
- During that period, Engineer B distributed a previously printed brochure listing Engineer A as one of Engineer B’s key employees, and continued to use the previously printed brochure with Engineer A’s name in it well after Engineer B did in fact terminate Engineer A.
Duty of Loyalty of Terminated Employed Engineer to Employer

Questions:

• Was it ethical for Engineer A to notify clients of Engineer B that Engineer A was planning to start a firm and would appreciate being considered for future work while still in the employ of Engineer B?
• Was it ethical for Engineer B to distribute a brochure listing Engineer A as a key employee in view of the fact that Engineer B had given Engineer A a notice of termination?
• Was it ethical for Engineer B to distribute a brochure listing Engineer A as a key employee after Engineer A’s actual termination?
Duty of Loyalty of Terminated Employed Engineer to Employer

Conclusions:
Q1. It was unethical for Engineer A to notify clients of Engineer B that Engineer A was planning to start a firm and would appreciate being considered for future work while still in the employ of Engineer B.

Q2. It was not unethical for Engineer B to distribute a previously printed brochure listing Engineer A as a key employee provided Engineer B apprised the prospective client during the negotiation of Engineer A’s pending termination.

Q3. It was unethical for Engineer B to distribute a brochure listing Engineer A as a key employee after Engineer A’s actual termination.
Payment for Employment

Facts:

• Engineer A, a recent engineering graduate seeking employment, had a direct offer from Company X for a position in its sales department, and at the same time had an offer from Company Z through an employment agency for a position in its design division.

• Engineer A was attracted to the second offer for work more to his liking, but the proposed salary was $2000 year less than that offered by Company X. The employment agency told Engineer A that Company Z would not increase the amount of the proposed salary during the initial year of employment because of its salary system applicable to all newly hired engineers, but that the employment agency would, from its own funds, pay Engineer A an “acceptance bonus” of $200 if he accepted the officer of Company Z.

• Engineer A has inquired whether it would be ethical for him to accept the bonus arrangement.
Payment for Employment

Question:
- Is it ethical for an engineer to accept a bonus payment from an employment agency as an inducement to accept employment with a particular employer?
Payment for Employment

Conclusion:

• It is ethical for an engineer to accept a bonus payment from an employment agency as an inducement to accept employment with a particular employer.
Ethical Review Case Study #3

Business Card Use

Facts:

- John Doe, P.E., a partner in a consulting engineering firm, is elected president of a state engineering society.
- He proposes to print on the other side of his regular business card a separate showing of his name, the address and telephone number of the state engineering society office, and with the additional reference: “President, ______________ Engineering Society.”
Business Card Use

Question:
• Would a dual business-professional society card as described be ethical?
Conclusion:
- It would not be ethical for Engineer Doe to have a dual business/professional society card as described.
Ethical Review Case Study #4

Free Seminar Attendance

A pipe company invites engineers to a complimentary educational seminar on the use of its products.

ABC sends an invitation to Engineer A, as well as other engineers in a particular geographic area, announcing a one-day complimentary educational seminar to educate engineers on current technological advances in the selection and use of pipe in construction. ABC will host all refreshments, buffet luncheon during the seminar, and a cocktail reception immediately following. Engineer A agrees to attend.
Ethical Review Case Study #4

Free Seminar Attendance

**Question:**
Was it ethical for Engineer A to attend the one-day complimentary educational seminar hosted by the ABC Pipe Company?
Conclusion:

The Code unequivocally states that engineers must not accept gifts or other valuable consideration from a supplier in exchange for specifying its products. However, in this case we are dealing with a material supplier who is introducing information about pipe products to engineers in the community and has chosen the form of an educational seminar as its vehicle.

It was ethical for Engineer A to attend the one-day complimentary educational seminar hosted by the ABC Pipe Company.
Questions/Discussion
Thank You
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