

**RULES
OF
TENNESSEE BOARD OF EXAMINERS
FOR LAND SURVEYORS**

**CHAPTER 0820-04
RULES OF PROFESSIONAL CONDUCT**

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0820-04-.01 APPLICABILITY.

The provisions of this chapter shall apply to any person registered to practice land surveying in this state, and to any partnership or corporation engaged in the practice of surveying in this state. For the purpose of this chapter, unless the context otherwise requires, the word "registrant" includes any person, partnership, or corporation.

Authority: T.C.A. §§ 62-18-105(d) and 62-18-106(c). **Administrative History:** Original rule filed November 20, 1991; effective January 4, 1992.

0820-04-.02 PROPER CONDUCT OF PRACTICE.

- (1) The registrant shall at all times recognize the primary obligation to protect the safety, health, and welfare of the public in the performance of the registrant's professional duties.
- (2) A registrant possessing knowledge of a violation of T.C.A. Title 62, Chapter 18, or any rules promulgated thereunder 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.
- (3) The registrant shall respond to all inquiries and correspondence from the Board within fifteen days from the day of receipt and shall timely claim undelivered correspondence from the U.S. Postal Service, or other delivery service, upon notice thereof.
- (4) The registrant shall not assist in any way in the application for licensure of a person known by the registrant to be unqualified in respect to education, training, or experience.

Authority: T.C.A. §§ 62-18-105(d) and 62-18-106(c). **Administrative History:** Original rule filed November 20, 1991; effective January 4, 1992. Amendment filed November 17, 2014; effective February 15, 2015.

0820-04-.03 SERVICE IN AREAS OF COMPETENCE.

- (1) The registrant shall undertake to perform land surveying assignments only when qualified by education or experience in the specific technical field of professional land surveying involved.
- (2) The registrant may accept an assignment requiring education or experience outside of the registrant's own field of competence, but only to the extent that the registrant's 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.

(Rule 0820-04-.03, continued)

- (3) The registrant shall not affix his or her signature or seal to any document dealing with subject matter in which the registrant lacks competence acquired through education or experience, nor to any document not prepared by the registrant or under the registrant's supervision.
- (4) In providing services, the registrant shall take into account all applicable laws and regulations. The registrant shall not knowingly provide services resulting in violation of such laws and regulations.
- (5) Incompetence. The following acts or omissions, among others, may be deemed to be "incompetence" for the purposes of T.C.A. §§62-18-116(a)(1)(B), and to be cause for denial, suspension or revocation of a certificate of registration to practice land surveying.
 - (a) Malpractice. Incompetence includes, but is not limited to recklessness, or excessive errors or omissions in the registrant's record of professional practice.
 - (b) Disability. Incompetence includes but is not limited to mental or physical disability or addiction to alcohol or drugs as to endanger health, safety and interest of the public by impairing skill and care in providing professional services.

Authority: T.C.A. §§ 62-18-105(d) and 62-18-106(c). **Administrative History:** Original rule filed November 20, 1991; effective January 4, 1992. Amendment filed November 17, 2014; effective February 15, 2015.

0820-04-.04 PUBLIC STATEMENTS.

- (1) The registrant shall be completely objective and truthful in all professional reports, statements, or testimony. The registrant shall include all relevant and pertinent information in such reports, statements, or testimony.
- (2) The registrant, when serving as an expert 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 experience and competence in the subject matter, and upon honest conviction of the accuracy and propriety of the registrant's testimony.
- (3) The registrant 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.

Authority: T.C.A. §§ 62-18-105(d) and 62-18-106(c). **Administrative History:** Original rule filed November 20, 1991; effective January 4, 1992. Amendment filed November 17, 2014; effective February 15, 2015.

0820-04-.05 CONFLICTS OF INTEREST.

- (1) The registrant shall conscientiously strive to avoid conflicts of interest with the registrant's employer or client; but, when such conflict is unavoidable, the registrant shall forthwith disclose the circumstances to his or her employer or client.
- (2) The registrant shall avoid all known or potential conflicts of interest with his or her employer or client, and shall promptly inform his or her employer or client of any business association, interests, or circumstances which could influence the registrant's judgment or the quality of his or her services.
- (3) The registrant shall not accept compensation (financial or otherwise) from more than one party for services on or pertaining to the same project rendered in the same time frame, unless the circumstances are fully disclosed to, and agreed to in writing, by all interested parties.

(Rule 0820-04-.03, continued)

- (4) When engaged in public service on a project as a member, advisor, or employee of a governmental body or department, the registrant and the registrant's organization shall not perform services for any other client regarding or connected to the project.
- (5) The registrant shall not reveal facts, data, or information obtained in a professional capacity without the prior consent of the client, employer, or public body on which the registrant serves except as authorized or required by law. The registrant shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties in connection with work for employers or clients.

Authority: T.C.A. §§ 62-18-105(d) and 62-18-106(c). **Administrative History:** Original rule filed November 20, 1991; effective January 4, 1992. Repeal and new rule filed November 17, 2014; effective February 15, 2015.

0820-04-.06 ACCEPTANCE OF WORK.

- (1) The registrant shall not offer or make payment of any consideration, either directly or indirectly, by way of commission, political contribution, gift, or by any other means in order to secure work; provided, however, that nothing in this provision prohibits a registrant from seeking a salaried position through legitimate employment agencies.
- (2) The registrant shall not falsify or permit misrepresentation of his or his associates' academic or professional qualifications. He shall not misrepresent or exaggerate his degree of responsibility in or for the subject matter or prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employer, employees, associates, joint ventures, or his or their past accomplishments with the intent and purpose of enhancing his qualifications and his work.
- (3) The registrant shall not request, propose, or accept a professional commission on a contingent basis under circumstances in which his professional judgment may be compromised.

Authority: T.C.A. §§ 62-18-105(d) and 62-18-106(c). **Administrative History:** Original rule filed November 20, 1991; effective January 4, 1992.

0820-04-.07 MISCONDUCT.

- (1) The registrant shall not partner, practice, or offer to practice with any person or firm that the registrant knows, or has reason to believe, is engaging in business or professional practice of a fraudulent or dishonest nature.
- (2) The registrant shall not furnish limited services in such a manner as to enable unregistered persons to evade:
 - (a) Federal, state, and local surveying and planning laws and regulations, or
 - (b) Registration requirements of T.C.A., Title 62, Chapter 18.
- (3) The following acts, among others, may be deemed to be "misconduct" for the purposes of T.C.A. §§62-18-116(a)(1)(B), and to be cause for denial, suspension, or revocation of a certificate of registration to practice land surveying:
 - (a) Conviction in a court of competent jurisdiction of a felony or any offense that has a directly unfavorable reflection on the registrant's ability to practice land surveying.

(Rule 0820-04-.07, continued)

- (b) Revocation, suspension, or disciplinary voluntary surrender of a license or certificate of registration to practice land surveying in another jurisdiction.

Nothing in this paragraph should be construed as precluding the Board from deeming other acts and conduct to be "misconduct."

Authority: T.C.A. §§ 62-18-105(d) and 62-18-106(c). **Administrative History:** Original rule filed November 20, 1991; effective January 4, 1992. Repeal and new rule filed November 17, 2014; effective February 15, 2015.

0820-04-.08 SEALS.

- (1) The design of the registrant's seal required by T.C.A. §§62-18-119, shall be as follows:



- (2) The seal and signature of the registrant and the date of signing shall be placed on all land surveys, reports, plats, drawings, plans, and calculations whenever presented to a client or any public agency to certify that the work thereon was done by the registrant or under the responsible charge of the registrant. Working drawings or preliminary documents are not required to have a seal and signature if the working drawing or preliminary document contains a statement in large bold letters to the effect "PRELIMINARY, NOT FOR CONSTRUCTION, RECORDING PURPOSES, OR IMPLEMENTATION." The size of the seal shall be two inches in diameter in all cases and on all documentation requiring the registrant's seal, regardless of the size of the document.
- (3) The registrant shall superimpose his or her signature (not a rubber stamp) and date of signature across the face and beyond the circumference of or adjacent to the seal on documents to which the registrant's seal is affixed.
- (4) The seal and signature shall be placed on all original copies, tracings, or other reproducible documents so that the seal and signature will be reproduced when copies are made.
- (5) When the document contains more than one sheet, the first or title page shall be sealed and signed by the registrant who was in responsible charge. In addition, each sheet shall be sealed and signed by the registrant or registrants responsible for that sheet. Two or more registrants may affix their signatures and seals, provided that the registrants designate by note under the seals the specific subject matter for which each is responsible. When a firm performs the work, each sheet shall be sealed and signed by the registrant or registrants who were in responsible charge of that sheet as required by T.C.A. § 62-18-122(b).
- (6) The seal and signature shall be placed on work only when it was under the registrant's responsible charge. The registrant shall sign and seal only work within the registrant's area(s) of competence.

(Rule 0820-04-.08, continued)

- (7) Maps, plats, surveys, or other documents will be deemed to have been prepared under the responsible charge of a registrant only when all the following conditions have been met and documented:
 - (a) The client requesting preparation of such maps, plats, surveys, or other documents makes the request directly to the registrant, or a member or employee of the registrant's firm;
 - (b) The registrant supervises the preparation of the maps, plats, surveys, or other documents and has input into their preparation prior to their completion;
 - (c) The registrant reviews the final maps, plats, surveys, or other documents; and
 - (d) The registrant has the authority to, and does, make any necessary and appropriate changes to the final maps, plats, surveys, or other documents. The registrant is responsible for meeting all of the preceding requirements whether the work is being performed remotely or locally.
- (8) Any revision to a document containing the seal and signature of a registrant shall be described and dated in a manner that conforms to current industry standards. If the revisions are not done by the original registrant, the revisions must also be signed and sealed by the registrant in responsible charge of those revisions and otherwise identified in the same manner.
- (9) In circumstances where a registrant in responsible charge of the work is unavailable to complete the work, a successor registrant may take responsible charge by performing all professional services to include developing maps, plats, surveys or other documents and any necessary and appropriate changes to the work. The non-professional services, such as drafting, need not be redone by the successor registrant but must clearly and accurately reflect the successor registrant's work. The burden is on the successor registrant to show such compliance. The successor registrant shall have control of and responsibility for the work product and the signed and sealed originals of all documents.
- (10) Computer-generated seals not signed with a digital signature may be used on final original drawings provided a handwritten signature is placed across the seal and the date is handwritten below the seal. Maps, plats, surveys or other documents that are signed using a digital signature must have an electronic authentication process attached to or logically associated with the electronic document. The digital signature must be:
 - (a) Unique to the individual using it;
 - (b) Capable of verification;
 - (c) Under the sole control of the individual using it; and,
 - (d) Linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.

A digital signature that uses a process approved by the board will be presumed to meet the criteria set forth in subsections 10 a–d above. Any hard copy printed from the transmitted electronic file shall bear the facsimile of the signature and seal and shall be a confirmation that the electronic file was not altered after the initial digital signing of the file. Any alterations to the file shall cause the facsimile of the signature to be voided.

(Rule 0820-04-.08, continued)

Authority: T.C.A. §§ 62-18-105(d), 62-18-106(c), and 62-18-119(d). **Administrative History:** Original rule filed November 20, 1991; effective January 4, 1992. Repeal and new rule filed November 17, 2014; effective February 15, 2015.

0820-04-.09 RESPONSIBLE CHARGE OF SERVICE.

- (1) Only officers and principals who are employed full-time for a minimum of thirty (30) hours per week and who hold active Tennessee registration can be in responsible charge of a firm's practice. A registrant who renders occasional, part-time, or consulting services to or for a firm may not be designated as an officer or principal in responsible charge.
- (2) The officer or principal in responsible charge must be registered in the profession in which services are being offered.
- (3) An officer or principal may be in responsible charge of more than one firm only if the firms are at the same physical location.
- (4) Corporations, partnerships and firms maintaining any place of business in this state for the purpose of providing or offering to provide land surveying services to the public shall have, in responsible charge of such service at any and each place of business, a resident registered land surveyor.
- (5) In the event of a change in the officer or principal in responsible charge, a firm cannot provide or offer services to the public until such time as a new officer or principal in responsible charge is identified.

Authority: T.C.A. §§ 62-18-105(d) and 62-18-106(c). **Administrative History:** Original rule filed November 20, 1991; effective January 4, 1992. Repeal and new rule filed November 17, 2014; effective February 15, 2015.

0820-04-.10 PRACTICE – DISCLOSURE.

- (1) A corporation, partnership, or firm offering service to the public may engage in the practice of surveying in this state, provided that at least one (1) of the principals or officers of the corporation, partnership, or firm is in responsible charge of the practice and is registered as required in this chapter, or is otherwise authorized to practice under this chapter. The same exemptions shall apply to corporations, partnerships, and firms as apply to individuals under this chapter.
- (2) Corporations, partnerships, or firms offering surveying service to the public shall file with the board, on a form prescribed by the board, a listing of names and addresses of all principals and officers, as well as the principals or officers duly registered to practice surveying in this state who are in responsible charge of the practice in this state. The corporations, partnerships, or firms shall advise the board in writing within sixty (60) days of any change of status.

Authority: T.C.A. §§ 62-18-105(d) and 62-18-106(c). **Administrative History:** Original rule filed November 17, 2014; effective February 15, 2015.