

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

333 BOARD OF LICENSURE OF FORESTERS

Chapter 100: CODE OF ETHICS

Summary: This chapter defines unprofessional practice as failure to comply with the Code of Ethics adopted by the board in this chapter.

1. Code of Ethics; Unprofessional Practice

The following Code of Ethics defines the conduct of foresters in their relations with clients, employers, other professionals, and the public. Unprofessional practice includes but is not limited to any failure to comply with the Code of Ethics.

2. Definitions

As used in this section, unless the context otherwise indicates, the following terms have the following meanings:

1. Client. "Client" means the individual or entity who is the recipient of the forestry services provided by the forester, other than an employer of the forester.
2. Forester. "Forester" means a person who holds a license from the Board as a forester or an intern forester.

3. Obligations to clients and employers

A forester shall bear the following obligations to clients and employers, except that subsections 4, 6, 7 and 9 below do not apply to foresters performing services on land or timber owned, leased or controlled by the employer of the forester or an agent or affiliate of the employer. Notwithstanding the foregoing, subsections 4, 6, 7 and 9 do apply to foresters performing services in connection with stumpage purchase agreements associated with one-time or intermittent harvesting.

1. General Duty

A forester shall act towards the client and employer in all professional matters with loyalty, fidelity, and integrity.

2. Confidentiality

A forester will not voluntarily disclose information concerning the affairs of the forester's client or employer without the client's or employer's express permission, except as required by law.

3. Conflicts of Interest

A. Generally. A forester must avoid a conflict of interest, or the appearance of a conflict of interest. If, in spite of precautions taken to avoid a conflict of interest a conflict is discovered, the forester must

- (i) Promptly and fully disclose the conflict to the client or employer in writing; and
- (ii) Either act immediately to resolve the conflict, or obtain written consent from the client or employer.

B. Disclosure. The disclosure required by subparagraph (i) above shall include, but not be limited to:

- (i) The role in which the forester proposes to provide the services (e.g., procurement forester, management assistance forester, landowner's assistance forester);
- (ii) The person or entity paying for the services; and
- (iii) A description of any confidential client information that may be disclosed to the person or entity paying for the services.

C. Arising from timber appraisals. In the event that a conflict of interest as a result of a timber appraisal should arise on a later transaction, in which a forester has a direct or indirect interest, the forester shall disclose to the former client or employer the nature of the conflict of interest immediately.

4. Fee Disclosure

Prior to providing services, a forester shall disclose all direct and indirect costs or obligations of the services to be provided. This disclosure shall include the rates, commissions and methods by which compensation shall be calculated and any estimate of the overall cost of the services to be provided. In the event that written confirmation of the scope of duties is provided pursuant to subsection 6 below, the fee disclosure required by this paragraph shall be included in the written confirmation. If circumstances cause the fee estimate to become significantly

inaccurate, the forester shall consult the client and convey a revised estimate to the client as soon as practicable thereafter.

5. Fees

Fees may be negotiated on any mutually agreeable basis, except that no fee may be contingent upon the reporting of a predetermined result or value, or direction of a result or value that favors the interests of the client or employer. With respect to timber appraisals, a forester may not accept a fee based upon the value of the timber being appraised, nor may a forester have any legal or equitable interest in the property being appraised.

6. Written confirmation

A forester must offer to provide written confirmation to the client of the duties to be performed by the forester for the client prior to commencing work on a project unless the project is to be completed within seven (7) days of the forester's acceptance of the assignment. This written confirmation must set forth with reasonable certainty the scope of the project, any fee disclosure required under subsection 4 above, and the anticipated time of completion.

7. Client Funds

A forester who has custody of client funds shall maintain said funds in separate trust accounts, which are not commingled with the forester's assets, but which may be commingled with other client funds.

8. Due Care

A forester shall strive to deliver all work on time and in a complete, accurate and competent manner, giving fair notice of any delays or deficiencies in the work.

9. Client Objectives

A forester shall obtain a clear understanding of the client's objectives in connection with providing any services to the client.

10. Qualified

A forester shall perform only those services for which the forester is qualified by education or experience.

11. Other Experts

A forester shall advise the client or employer to engage other experts and specialists in forestry or related fields whenever the interest of the client or employer would be best served by such action and the forester will work cooperatively with other professionals.

12. Endorsement of Document.

A forester shall only sign or seal those plans, reports, prescriptions, maps and specifications personally prepared by the forester or produced under the direct supervision or review of the forester. Any maps or property descriptions prepared for public record by a forester shall clearly disclose "not a legal survey."

13. Professional Standards

If a forester is asked to participate in forestry operations which would deviate from accepted professional standards, the forester must advise the client or employer in advance of the consequences of such deviation. In no event shall a forester participate in or condone any violation of any laws.

4. Obligations to the Public

1. Disclosure of Role

A forester must clearly state on whose behalf the forester provides any opinions or makes any professional statements. In dealing with the public, a forester must clearly identify him- or herself, the client, and any other person whose interests the forester is representing.

2. Public Comment

A forester shall base public comment on forestry matters on accurate knowledge and shall not distort or withhold pertinent information to substantiate a point of view.

3. Ethics First

A forester shall uphold this Code of Ethics above the demands of employment.

4. Comply With Laws

A forester shall at all times in the performance of forestry services abide by federal and state laws and municipal ordinances involving forestry and timber

harvesting, land use, agriculture, natural resource management and protection, environmental protection and the handling of client funds.

5. Advertising

A forester shall only advertise in a dignified and truthful manner, stating the services the forester is qualified and prepared to perform. Such advertisements may include references to fees charged, but may not include references to past clients served without their prior written consent.

6. Supervision of Unlicensed Individuals

A forester shall comply with all provisions of the Forester Licensing law and the rules of the Board in connection with the supervision of the work of an individual not licensed by the Board.

5. Obligations to Other Foresters

1. Recommendation

Information submitted by a forester about a candidate for a license from this Board, or in connection with a prospective client referral to another forester or professional, shall be accurate, factual and objective.

2. Duties of Sponsor

A forester shall perform all duties and obligations imposed on the forester by the Forester Licensing law and the rules of the Board when acting as a sponsor of an intern forester.

STATUTORY AUTHORITY: 32 MRSA §§ 5506(3)

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