



ADMINISTRATIVE RULES OF MONTANA



24.183.2207 UNPROFESSIONAL CONDUCT

- (1) In addition to those forms of unprofessional conduct defined in 37-1-316, MCA, the following is unprofessional conduct for a licensee or license applicant under Title 37, chapter 67, MCA:
 - (a) conviction, including conviction following a plea of nolo contendere of an offense related to the ethical practice of engineering or land surveying, whether a misdemeanor or felony, and whether or not an appeal is pending;
 - (b) fraud, misrepresentation, deception, or concealment of a material fact in applying for or securing a license or license renewal, or in taking an examination required for licensure. As used herein, "material" means any false or misleading statement or information;
 - (c) conduct in the performance of professional duties likely to deceive, defraud, or harm the public;
 - (d) making a false or misleading statement regarding the licensee's skill, experience, and scope of responsibility in connection with work for which they are claiming experience and performance of professional duties;
 - (e) failing to be objective and truthful in professional reports, statements, and testimony;
 - (f) publicly expressing a professional opinion on technical subjects when the opinion is not founded upon adequate knowledge of the facts and competence in the subject matter;
 - (g) issuing a statement, criticism, or argument on technical matters which are inspired by or paid for by interested parties, unless the licensee prefaces the comments by explicitly identifying the interested parties on whose behalf they are speaking and by revealing the existence of any interest the licensee may have in the matter;
 - (h) allowing the licensee's independent and professional judgment to be influenced in such a way that public safety, health, property, or welfare is endangered;
 - (i) approving and/or sealing design documents and surveys which do not conform with accepted engineering and land surveying standards, and which are thus unsafe for public health, property, and welfare;
 - (j) affixing a signature or seal to any plans or documents outside the competence of the licensee or not prepared under their responsible charge;
 - (k) failing to report professional misconduct and violation of the laws and rules of the board which are directly known to the licensee failing to report;

- (l) failing to disclose known or potential conflicts of interest to a licensee's employers and clients by promptly informing them of any business association, interest, or other circumstances which could influence the licensee's judgment or quality of their services;
- (m) accepting compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed to, and agreed upon by all interested parties;
- (n) soliciting or accepting financial or other valuable consideration, directly or indirectly, from material or equipment suppliers or contractors in exchange for recommending the products of said suppliers or contractors, except with full disclosure;
- (o) soliciting or accepting financial or other valuable consideration such as gratuities, gifts, travel, lodging, loans, entertainment, or other favors, directly or indirectly from contractors, their agents, or other parties in connection with work by the licensee or for the licensee's employers or clients for which the licensee is responsible;
- (p) accepting a fee, contract, or commission for professional services on a "contingency basis," which may compromise the licensee's professional judgment;
- (q) participating in decisions, with respect to professional services solicited or provided to a governmental body or organization, on which the licensee serves as a member, advisor, or employee;
- (r) soliciting or accepting a professional contract from a governmental body on which a principal or officer of the licensee's employer serves as member, except upon public disclosure of all pertinent facts and circumstances and consent of the appropriate public authority;
- (s) knowingly seeking or accepting employment for professional services for work on which another licensee or certificate holder is employed, or contracted to perform without the currently employed or contracted licensee or certificate holder being informed in writing; and
- (t) knowingly attempting to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice, or employment of other licensees or indiscriminately criticizing other licensees' work.

Authorizing statute(s): 37-1-319, 37-67-202, MCA

Implementing statute(s): 37-1-316, 37-67-331, 37-67-332, MCA

History: NEW, 2014 MAR p. 2840, Eff. 11/21/14; AMD, 2019 MAR p. 635, Eff. 5/25/19.