

APA-1
6/93

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 330 Department or Agency Board of Licensure for Professional Engineers & Land Surveyors

Rule No. 330-X-14-.04

Rule Title: Confidences of Clients and Employers (Canon III)

 New; XX Amend: Repeal; Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, safety, or welfare? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed rule have any economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

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Certification of Authorized Official

I certify that the attached rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama, 1975 and that it conforms to all applicable filing requirements of the Administrative Procedures Division of the Legislative Reference Service.

Signature of certifying officer Regina A. Dima
Date 4/17/12

ALABAMA STATE BOARD OF LICENSURE FOR
PROFESSIONAL ENGINEERS AND LAND SURVEYORS

NOTICE OF INTENDED ACTION

RULE NO. & TITLE: 330-X-14-.01 Preamble
330-X-14-.04 Confidences of Clients and Employers
(Canon III)
330-X-14-.05 Practice (Canon IV)
330-X-14-.06 Ethics (Canon V)


INTENDED ACTION: Amend

SUBSTANCE OF AMENDMENT: The Board proposes to amend existing rules to update the Code of Ethics that licensees are to adhere to. These changes affirm that a licensee's first responsibility is to protect the public, that they must fully disclose conflicts of interest, that they are not to misrepresent their qualification, and that they are to notify the Board of any possible violations of the Code of Ethics.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held only if requested by an interested party. A written request should be submitted to the agency contact person listed below. Interested persons may present their views in writing to the Alabama Board of Licensure for Professional Engineers and Land Surveyors, 100 N. Union Street, Suite 382, Post Office Box 304451, Montgomery, Alabama 36130-4451.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: Written comments concerning these changes must be received by the Alabama Board of Licensure for Professional Engineers and Land Surveyors no later than June 6, 2012.

CONTACT PERSON AT AGENCY: Regina A. Dinger, Executive Director; Alabama Board of Licensure for Professional Engineers and Land Surveyors; P.O. Box 304451, Montgomery, AL 36130-4451; (334) 242-5568.



Regina A. Dinger, Executive Director
Alabama State Board of Licensure for
Professional Engineers and Land Surveyors

**BOARD OF LICENSURE FOR
PROFESSIONAL ENGINEERS AND LAND SURVEYORS**

**CHAPTER 330-X-14
PROFESSIONAL CONDUCT
(CODE OF ETHICS)**

- 330-X-14-.01 Preamble
- 330-X-14-.04 Confidences of Clients and Employers (Canon III)
- 330-X-14-.05 Practice (Canon IV)
- 330-X-14-.06 Ethics (Canon V)

330-X-14-.01 Preamble.

(1) In order to meet the intent of the Code of Alabama 1975, Title 34, Chapter 11, to safeguard the life, health, property, and welfare of the public and to establish and maintain a high standard of integrity, skills, and practice in the professions of engineering and land surveying, the following Rules of Professional Conduct (Code of Ethics) are promulgated in accordance with Section 34-11-35, Code of Alabama 1975 and shall be binding upon (a) every person holding a license as a professional engineer or professional land surveyor, (b) every certified engineer intern and land surveyor intern and (c) holders of certificates of authorization.

(2) All persons licensed or certified under the provisions of Chapter 11, Title 34, Code of Alabama 1975 and prior Code, are charged with having knowledge of the existence of the Rules of Professional Conduct (Code of Ethics), Rules 330-X-14-.02 through 330-X-14-.07, and shall be deemed to be familiar with their several provisions and to understand them. Such knowledge shall encompass the understanding that the practice of engineering or land surveying is a privilege, as opposed to a right, and the licensee or intern shall be forthright and candid in his or her statements or written response to the Board or its representatives on matters pertaining to professional conduct.

(3) Where applicable, the singular use of the words "engineer or land surveyor" used in the five Rules of Professional Conduct (Canons) shall also include holders of certificates of authorization.

(4) Licensees, in the performance of their services for clients, employers, and customers, shall be cognizant that their first and foremost responsibility is to the public welfare.

Author: Board

Statutory Authority: Section 34-11-35, Code of Alabama 1975

Effective Date: September 10, 1982. Amended: December 19, 1984, October 20, 1987, October 18, 1994, and October 28, 1998.

330-X-14-.04 Confidences of Clients and Employers. (Canon III) The engineer or land surveyor shall safeguard and preserve the confidences and private information of clients and employers as follows:

(a) Except as permitted by 330-X-14-.04(b), the engineer or land surveyor shall not knowingly:

1. Reveal a confidence or private information regarding or in the possession of the licensee's client or employer, current or former;

2. Use a confidence or private information regarding or in the possession of the client or employer, current or former, to the disadvantage of the client or employer;
3. Use a confidence or private information regarding or in the possession of the client or employer for the advantage of a third person, unless the client or employer, current or former, consents after full disclosure except (b) below.

(b) The engineer or land surveyor may reveal confidences or private information under the following circumstances:

1. When he or she has obtained the consent of the client or clients, employer or employers, current or former, affected, but only after full disclosure to them;
2. When required by law or court order;
3. When necessary to establish legal proof of his or her relationship with a client or employer, current or former, in a court action to recover salaries, fees or other compensation due him or her as a result of his or her employment or association with the client or employer, current or former;
4. When necessary to defend himself or herself or his or her employees or associates in a legal action alleging wrongful conduct;
5. When there is potential danger to the public's safety and well being.

(c) The engineer or land surveyor shall exercise reasonable care to prevent unauthorized disclosure or use by his or her employees and associates of private information or confidences regarding or in the possession of a client or employer, current or former.

(d) Nothing in this Rule shall relieve an engineer or land surveyor from complying with Rule 330-X-14.05(j).

(e) Licensees shall not accept compensation, financial or otherwise, from more than one party for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.

Author: Board

Statutory Authority: Section 34-11-35, Code of Alabama 1975

Effective date: September 10, 1982. Amended: October 28, 1998.

330-X-14-.05 Practice. (Canon IV) The engineer or land surveyor shall endeavor to build a practice and professional reputation on the merit of his or her services as follows:

(a) The engineer or land surveyor shall not offer, or promise to pay or deliver, directly or indirectly, any commission, political contribution, gift, favor, gratuity, benefit or reward as an inducement to secure any specific professional engineering or professional land surveying work or assignment; providing and excepting, however, that an engineer or land surveyor may pay a duly licensed employment agency its fee or commission for securing engineering or land surveying employment in a salaried position.