

Canadian Board of Examiners for Professional Surveyors
Core Syllabus Item
C 11: BUSINESS PRACTICES AND THE PROFESSION

Study Guide:

Sample Questions:

Q1. There are three general areas within a survey practice that can lead to professional liability claims related to providing survey services. Name the areas.

Answer:

The three general areas within a survey practices that can lead to claims are;
Communications issues, Contractual issues, and Computations or other Practice issues.

See Risk Management Guide, Professional Surveyors Canada, Section 4 available on PSC website in .pdf format. <https://www.psc-gpc.ca/risk-management-guide/>

Q2. Outline the differences between a private corporation and a crown corporation.

Answer:

A private corporation has a restricted number of shareholders prohibited from issuing its shares to the public. A crown corporation is owned by the government and is operated by a more or less independent, government appointed board. They both are organized and function in a similar manner with one major exception: in the face of losses, a crown corporation can draw on the government for support via subsidies, operating grants, and loan guarantees.

See The Law and Business Administration in Canada, p. 596; Introduction to economics, Chapter 9

Q3. What are the elements of a negligence action?

Answer:

In establishing the right to recover compensation, a plaintiff must prove three things:

- The defendant owed the plaintiff a duty of care caused injury to the plaintiff
- The defendant breached that duty
- The defendant's conduct

See The Law and Business Administration in Canada, Part 2, p.50

Q4. Provide at least 5 different reasons why a written contract for surveying services should be the norm in your practice.

Answer:

Proper business records are effective in ensuring payment, compliance and even defending an insurance claim. A written contract specifically does the following:

- Sets down clearly and precisely the intention of the parties.
- Avoids misunderstandings.
- Clarifies the responsibilities of each party.
- Oral contracts can put the words of one party against those of the other.

- Memories of oral contracts can fade with time.
- Assists clients in understanding more completely the services being provided.
- Easier to collect money in the event of a dispute.

See section 3 of *Professional Surveyors Canada, Contracting for Surveying Services Guide*, available on PSC website in .pdf format. <https://www.psc-gpc.ca/wp-content/uploads/2016/09/CONTRACTING-FOR-SURVEYING-SERVICES-MANUAL-RevJan-15.pdf>

Q5. What are the elements of a contract?

Answer:

A binding Contract needs five elements:

All contracts, whether verbal or written must meet the following five criteria to be considered a binding contract. **Agreement:** Both parties to the contract must come to a “meeting of the minds”, whereby one party will provide goods or services and the other party accepts the goods or services for an agreed consideration (fee or goods).

Fee or consideration: An item or monetary reward must be exchanged between the two or more parties effecting the contract. **Contract Must Be Legally Enforceable:** The Contract conditions must be legally enforceable in the jurisdiction to which the contract is to apply.

The Purpose for the Contract must be Legal: The Contract must be for a legal purpose. A consultant who is not a licensed professional engineer, licensed land surveyor or licensed architect and signs a contract to provide such professional services, would be signing an illegal contract and accordingly such a contract could not be enforced. **Mentally Competent Parties:** The signatories to the contract must be mentally competent and not be impaired by insanity or intoxication. They must be authorized by their respective companies to sign the contract. These persons can typically be company officers or specifically authorized personnel with a mandate to sign the contract.

See *Professional Surveyors Canada Risk Management Guide*, in PDF format. <https://www.psc-gpc.ca/risk-management-guide/> Section 3; and *The Law and Business Administration in Canada, Part 3*

Q6. Describe 4 forms of business financing and indicate which one you would use for your business.

Answer:

Mortgages, leases of equipment, consignment of book debts, pledges, conditional sale contracts, chattel mortgages, floating charges, line of credit.

See *The Law and Business Administration in Canada, Part 7, p.662-664*

Q7. How can a contract be discharged?

Answer:

A contract is discharged by performance, by agreement, by substituted agreement, by dissolution in accordance to terms in the contract, by frustration, and by operation of law.

See *The Law and Business Administration in Canada, Part 3, p. 252*

Q8. Income distribution produced by the market can be looked at in equilibrium and disequilibrium – explain both.

Answer:

It can be looked at in equilibrium or in disequilibrium. In equilibrium, in an efficiently operating free-market economy, similar efforts of work or investment by similar people will tend to be similarly rewarded everywhere in the economy, and dissimilar people will be dissimilarly rewarded. In disequilibrium, windfall profits and losses abound, so that similar people making similar efforts are likely to be very dissimilarly rewarded.

See Introduction to Economics, Chapter 7, p. 418

Q9. Differentiate between professional ethics and business ethics.

Answer:

Many professional bodies require their members to observe a code of conduct which describes what constitutes an appropriate standard of professional care and therefore determine the extent of the duty owed by members to clients. Professional codes of conduct also impose ethical standards on their members over and above any legal requirement. Businesses are expected also to live up to a higher ethical standard than is imposed on them by the law. The difference between them is that a member of a profession who breaches the code may face disciplinary proceeding and may even be expelled from offender to practice that profession – a very severe sanction.

See The Law and Business Administration in Canada, Part 1, p. 7

Q10. What is a business plan?

Answer:

A business plan is a formal statement of a set of business goals, the reasons why they are believed attainable, and the plan for reaching those goals. It may also contain background information about the organization or team attempting to reach those goals. For-profit business plans typically focus on financial goals, such as profit or creation of wealth. Business plans may also target changes in perception and branding by the customer, client, tax-payer, or larger community. A business plan having changes in perception and branding as its primary goals is called a marketing plan.

See Business plan definition found on www.wikipedia.com

Q11. What do courts do?

Answer:

- They determine the validity of legislation;
- They interpret legislation
- They protect civil liberties
- They resolve disputes between private parties

See The Law and Business Administration in Canada, Part 1, p.8

Q12. What is a marketing plan?

Answer:

A marketing plan is a written document that details the necessary actions to achieve one or more marketing objectives. It can be for a product or service, a brand, or a product line. Marketing plans cover between one and five years. A marketing plan may be part of an overall business plan. Solid marketing strategy is the foundation of a well-written marketing plan. While a marketing plan contains a list of actions, a marketing plan without a sound strategic foundation is of little use.

See Marketing plan definition found on www.wikipedia.com

Q13. Describe three common forms of business association.

Answer:

Sole proprietorship – an individual who sets up a business creates a sole proprietorship.

Partnership – formed by two or more persons se a partnership is the relation which subsists between persons carrying on a business in common with a view of profit.

Joint venture – a business venture undertaken jointly by two or more parties.

Corporation – a legal person formed by incorporation according to a prescribed legal procedure.

See *The Law and Business Administration in Canada, Part 6, p. 561, 562, 565*

Q14. What would business insurance provide for your firm?

Answer:

Typically a business will insure against loss or damage:

- damage to buildings and contents (inventory, fixture, and equipment) due to fire or storm
- loss due to theft
- loss of, or damage to, vehicles used in the business

And may insure against:

- loss of profit due to interruption of business activities
- bad debt loss (credit insurance)
- losses caused by theft or fraud of employees (fidelity insurance)
- loss due to injury to, or death of, important personnel (key-person insurance)

Typically a business will also insure against liability:

- liability for negligent acts and omissions
- liability for defective products
- liability for the dangerous state of the premises
- liability for breach of professional duty of care

Also provincial/territorial legislation requires insurance against third-party liability for vehicles.

See *The Law and Business Administration in Canada, Part 4, p.363, 364*

Q15. What is an assignment of book debts? Provide an example.

Answer:

This refers to an assignment of contractual rights which is a common business transaction by the original owner of the rights to a third party. The party to whom the book debts (i.e. receivables) must then notify the party owing the debt to pay them instead of the original owner of the debt.

For example is XYZ a building contractor has built a building for ABC. Under the terms of their contract, ABC still owes XYZ \$10,000 to be paid one month after the completion of the

building. Meanwhile XYZ has purchased \$12,000 worth of materials from RRR Corp. In settlement of its debt to RRR Corp., XYZ pays \$2,000 in cash and assigns its rights to the \$10,000 still owing by ABC. RRR Corp. then notifies ABC that it should pay the money to it rather than to XYZ when the debt falls due.

Another of debt assignment is a customer paying at a store with a Visa credit card sets up an assignment of debt: a business accepts payment for goods or services purchased with its card. The customer, by entering into a contract with the credit card company, consents to the assignment and agrees to pay Visa later, rather than paying the business directly.

See The Law and Business Administration in Canada, Part 3, p.236, 243

Q16. Differentiate between the duties of directors and the right of shareholders in a corporation.

Answer:

Canadian legislation states that the duties of Directors are solely owed to the corporation with a view to the best interests of the corporation, and the directors must exercise the care, diligence, and skill that a reasonably prudent person would exercise in similar circumstances. Directors also have a general duty to avoid any conflict of interest with the corporation.

Shareholders have the rights to vote at any meetings of shareholders, to receive any dividend that is declared, to receive the remaining property of the corporation after payment of its debts upon dissolution.

See The Law and Business Administration in Canada, Part 6, p.610 - 614, 619 - 620

Q17. Explain the liability of directors of a corporation.

Answer:

Directors can be liable for negligence in discharging the duties of care and skill and for breach of fiduciary duties such as avoiding conflict of interest. A director who purchases or sells shares of the corporation with knowledge of confidential information is involved in what is called “insider trading” and is liable for accounting to the corporation for profit improperly obtained, compensation to persons suffering direct loss as a result of the insider trading, and criminal liability.

See The Law and Business Administration in Canada, Part 6, p.612 - 618

Q18. Why should strategic planning be a key activity for your business?

Answer:

A strategic plan is not a business plan - a business review or preparation of a strategic plan is a virtual necessity, without it a business is much more likely to fail. A sound plan should:

- Serve as a framework for decisions or for securing support/approval.
- Provide a basis for more detailed planning.
- Explain the business to others in order to inform, motivate & involve.
- Assist benchmarking & performance monitoring.
- Stimulate change and become building block for next plan.

A strategic plan should be visionary, conceptual and directional in contrast to an operational plan which is likely to be shorter term, tactical, focused, implementable and measurable. As an example, compare the process of planning a vacation (where, when, duration, budget, who goes, how travel are all strategic issues) with the final preparations (tasks, deadlines, funding, weather, packing, transport and so on are all operational matters). A satisfactory strategic

plan must be realistic and attainable so as to allow managers and entrepreneurs to think strategically and act operationally.

The following website has very good resources such as business planning papers, one of which is on strategic planning - www.planware.org

Q19. What constitutes standards of professional practice?

Answer:

These are different from ethics which concern moral conduct, honesty and intent whereas professional standards concern ability, questions of competence and standards of business practice. Professional standards of practice are those that a reasonable professional peer would be expected to follow in the proper provision of his/her professional duties.

See What does it mean to be a self-governing regulated profession? By Robert Schultze, MBA, AAAS, AACI, CAE – available at www.aaom.mb.ca

Q20. Financial statements are a requirement for any business – what are the basic items required to be shown?

Answer:

The income statement showing the results of operation for the financial year; the balance sheet showing the business' assets as of the financial year end including changes in share capital during the year; a statement of changes in financial position, analyzing changes in working capital; a statement of retained earnings showing changes during the year including the declaration of dividends; a statement of contributed surplus.

See Law and Business Administration in Canada, Part 6, p.624

Q21. Differentiate between setting up a business as a sole proprietor and a corporation.

Answer:

A sole proprietorship is the simplest way to set up a business. A sole proprietor is fully responsible for all debts and obligations related to his or her business. A creditor with a claim against a sole proprietor has a right against all of his or her assets, whether business or personal. This is known as unlimited liability.

This type of business comes under provincial jurisdiction. If the proprietor chooses to carry on a business under a name other than his/her own, he/she must register with the province. Your business name registration, or renewal of registration, will be valid for a certain number of years depending on the jurisdiction. If a sole proprietor establishes a business in his/her own name, without adding any other words, it is not necessary to register the business.

Note: In Newfoundland and Labrador, only incorporated businesses are required to register with the Provincial Registry of Companies and Deeds.

A corporation is a legal entity that is separate from its owners, the shareholders. No shareholder of a corporation is personally liable for the debts, obligations or acts of the corporation. This type of business can be incorporated at either the federal or provincial level. A corporation is identified by the terms "Limited", "Ltd.", "Incorporated", "Inc.", "Corporation", or "Corp.". Whatever the term, it must appear with the corporate name on all documents, stationery, and so on, as it appears on the incorporation document.

Private Corporation:

A private corporation can be formed by one or more people. A majority of its directors must be Canadian residents. If none of the directors reside in the province in which it does business, the corporation must appoint a Power of Attorney who resides in the province. A private corporation cannot sell shares or securities to the general public.

Public Corporation:

A "public corporation" is one that issues securities for public distribution. Besides filing incorporation documents, a public corporation must file a prospectus with the appropriate Securities Commission in the province, must employ outside auditors and must distribute semi-annual financial statements.

Federal Corporations:

Private and public corporations may be incorporated federally under the **Canada Corporations Act**. A firm operating nationally or in several provinces may find this advantageous. A federally incorporated business must still register in each province in which it does business.

The Canada Business website at www.canadabusiness.ca has a lot of information on starting a business. Follow the thread from starting a business to getting started to choosing a business structure to finally the forms of business organization.

Q22. Differentiate between professional ethics and business ethics.

Answer:

Professional ethics concerns the moral issues that arise because of the specialist knowledge that professionals attain, and how the use of this knowledge should be governed when providing a service to the public.

See www.wikipedia.org

Business ethics are about knowing what is right or wrong in the workplace and doing what's right -- this is in regard to effects of products/services and in relationships with stakeholders.

See Complete Guide to Ethics Management: An Ethics Toolkit for Managers, Carter McNamara, MBA, PhD, Authenticity Consulting, LLC, Copyright 1997-2008 - This guide is located at <http://www.managementhelp.org/ethics/ethxgde.htm>

Professional ethics are about the conduct of a professional while practicing his/her profession while business ethics is concerned with generally doing what is right while operating a business.

Q23. What is chattel mortgage and why would it be used?

Answer:

An interest in personal property may be charged in the same way as a mortgage of land and is called a chattel mortgage. There are 2 basic uses of chattel mortgage: in the first case a vendor of an article of property "takes back" a mortgage on the property sold. In the second case the owner of an article mortgages it to the lender as a security for a loan.

See The Law and Business Administration in Canada, Part 7, p.664

Q24. Explain bonding and its use.

Answer:

Guaranteed by a bond, thereby insuring that a payment is made or that specific rules are followed. Failure to meet the stipulations may result in forfeiture of the bond. Examples are

bail bond which someone posts to guarantee the presence in court of a person at a later date; a performance bond insures that a contract or project will be completed on time or that specific rules are followed. Failure to meet the stipulations may result in forfeiture of the bond.

See www.investorwords.com for definition

Q25. What does declaring bankruptcy do?

Answer:

Under the federal Bankruptcy and Insolvency Act performs 4 distinct duties:

- Establishes a uniform practice in bankruptcy proceedings throughout the country as inexpensively as possible
- Attempts to provide for an equitable distribution of the debtor's assets among the various creditors
- Provides a framework for preserving and reorganizing the debtor's business or affairs by working out an arrangement with the agreement of the creditors thus avoiding a total liquidation if possible
- Provides for the release of an honest but unfortunate debtor from his obligations to permit a fresh start free of debts

See *The Law and Business Administration in Canada, Part 7, p.683*

Q26. Professional liability insurance in Canada groups surveys services in 3 categories. Name the categories.

Answer:

The survey practices are grouped into one of three categories:

- Communication issues
- Contractual issues
- Computations issues

See *CCLS PLIC loss prevention practice management guide, available on CCLS website in .pdf format. www.ccls-ccag.ca*

Q27. Define agency and the relationship between agent and principal.

Answer:

Agency is a relationship in which one person, known as an agent, is authorized by another person for whom the agent is acting, known as the principal, to negotiate contracts with third party. The relationship between agent and principal is usually a contractual one, with the agent being remunerated by the principal, but a person may also act gratuitously as an agent, in which case the agent is bound by all the duties of a contractual agent.

See *The Law and Business Administration in Canada, Part 4, p.379*

Q28. What are the duties of an agent?

Answer:

- Duty to comply with the agency agreement i.e. with all terms express and implied of the contract with the principal

- Duty of care – an agent owes a duty of care to the principal. The degree of skill that the principal can expect depends upon the nature of the agent’s task and the agent’s apparent competence for the purpose.
- Personal performance – because of the high degree of confidence and trust implied in an agency relationship, the general rule is that an agent cannot delegate his/her duties without the principal’s agreement.
- Good faith – a fiduciary relationship exists between principal and agent. The duty of good faith requires that an agent inform the principal of any information coming to his/her attention that might influence the principal’s decisions.

See The Law and Business Administration in Canada, Part 4, p.380, 381

Q29. How can an agency relationship be terminated?

Answer:

By any of the following:

- At the end of a time specified in the agency agreement
- At the completion of the particular project for which the agency was formed
- On notice by either the principal or the agent that she/he wishes to end the agency
- On the death or insanity of either the principal or the agent
- On the bankruptcy of the principal
- On an event that makes performance of the agency agreement impossible

See The Law and Business Administration in Canada, Part 4, p.391

Q30. What is a consortium?

Answer:

A consortium is an association of two or more individuals, companies, organizations or governments (or any combination of these entities) with the objective of participating in a common activity or pooling their resources for achieving a common goal. Also is an association or a combination, as of businesses, financial institutions, or investors, for the purpose of engaging in a joint venture.

See Definition found on www.wikipedia.com

Q31. Discuss why a self-regulated profession may have a Continuing Professional Development program.

Answer:

The self-governing profession is responsible for setting the standards of competence and conduct that govern its members and are considered necessary to protect the public interest. No profession is static – technology changes quickly; standards are challenged by the public and professionals alike; work place methodologies are updates as industries advance. Continuing professional development is designed to address these issues. It is the self-governing profession responsibility to establish a program of continuing development to ensure that its members maintain a high level of technical competence and professional conduct.

See What does it mean to be a self-governing regulated profession? By Robert Schultze, MBA, AAAS, AACI, CAE – available at www.aaom.mb.ca

Q32. What are the main requirements of a marketing plan?

Answer:

A marketing plan is designed to assess needs, develop a product or service to meet those needs, communicate to the customer the attributes of the product/service, establish distribution channels to make products/services available to consumers, and to ensure that the company makes a profit. It must identify:

- Who - is the company, the community? Who are the principals, the employees?
- What - is the product/service, what is the company's goal in the short-term and long-term?
- Where - is the product/service, what is the company's goal in the short-term and long-term?
- How - does the company intend to meet its objectives, production levels, sales volumes?
- Why - was the product/service developed, what are its attributes or qualities, and how is it superior to existing products?

See The Canada Business website at www.canadabusiness.ca has a lot of information on a marketing plan – search marketing plan outline.

Q33. Describe 3 basic marketing strategies.

Answer:

- Market expansion: grow overall sales with existing sales and/or new products.
- Market share growth: increase the marketer's overall percentage or share of market. In many cases this can only be accomplished by taking sales away from competitors.
- Niche Market - obtain a commanding position within a certain segment of the overall market.
- Status Quo - This strategy looks to maintain the marketer's current position in the market, such as maintaining the same level of market share.
- Market Exit - This strategy looks to remove the product from the organization's product mix. This can be accomplished by: 1) selling the product to another organization, or 2) eliminating the product.

See

http://wiki.answers.com/Q/What_are_different_types_of_marketing_strategy_involved_in_marketing

Q34. What are an employer's statutory obligations in Canada?

Answer:

Canadian employment standards legislation sets out the minimum terms and conditions of employment in the federal and each provincial and territorial jurisdiction. Employers and employees may not contract out of these minimum obligations, except to provide for terms more favourable than those contained in the legislation. Accordingly, any document or practice that establishes a term of employment that is less favourable than an employment standard has no force or effect. Generally, employment standards legislation sets out minimum standards relating to matters such as wages, hours of work, overtime pay, public holidays, vacations with pay, various leaves of absences and notice of the termination of employment. You should also be aware that employment standards legislation and

regulations include many exceptions to the statutory minimum standards for certain types of employees, such as managers and professionals.

See *Doing Business in Canada* guide that can be found on www.blakes.com website

Q35. What are the major reasons behind the regulation of professions in Canada?

Answer:

Public protection; consistency; fairness and access; competencies and credentials; disclosure; multiple responsibilities and collaboration.

See www.cnnar.ca

Q36. What are the main attributes of self-governing professions in Canada? Protection of the public from harm and advocacy in the public interest.

Answer:

See *What does it mean to be a self-governing regulated profession*, Robert Schultze 2006, available at www.aaomb.mb.ca.

Q37. How many self-regulating surveying associations in Canada?

Answer:

There are 11 – one for each of the provinces and one for Canada Lands.

Q38. Describe the major components of a professional code of ethics.

Answer:

Many ethics codes have two components. First, an *aspirational* section, often in the preamble, that outlines what the organization aspires to, or the ideals it hopes to live up to. Second, an ethics code will typically list some *rules or principles*, which members of the organization will be expected to adhere to.

See *Guide for writing a code of ethics*, www.ethicsweb.ca/codes/coe3.htm

Q39. Name and compare 2 types of code of ethics.

Answer:

Code of ethics can be based on compliance or values and can take various forms: binding codes, voluntary codes, self-imposed codes.

A binding code refers to a professional code of conduct. Although the rules are not considered law their effect is often similar. A voluntary code, although voluntary often has a strong persuasive effect and is sometimes used as a substitute to government regulation. A self-imposed code is often in response to public criticism and sometimes it is used to impress and attract groups of consumers.

See *The Law and Business Administration in Canada, Part 1, p. 7*

Q40. Explain in general the complaint and discipline process for a self-regulated surveying association in Canada.

Answer:

A standard investigation and discipline model has been adopted in most self-regulated professional associations in Canada where it follows a two-tiered system of using two separate bodies of one committee for investigation and one committee for discipline. A complaint received by an association is referred to the investigating committee to determine if incompetence or misconduct has occurred. If the investigation committee determines that

the member is guilty of incompetence or misconduct, the investigation committee forwards the file to a separate disciplinary committee for a hearing at which the member has the opportunity to be heard in defence.

See What does it mean to be a self-governing regulated profession? By Robert Schultze, MBA, AAAS, AACI, CAE – available at www.aaom.mb.ca

Q41. What is a builder's lien?

Answer:

In all provinces of Canada, persons who have extended credit in the form of goods and services to improve land have a statutory remedy under the builder's lien legislation which provides for a builder's lien to arise immediately upon work being done or materials used in the improvement of property. To make a lien legally actionable, the lienholder must register it within a certain period of time. When the time has elapsed without the lienholder commencing an action against the land owner, the lien expires. A builder's lien gives creditors who have provided work and material for the improvement of land an interest in the land as security for payment. This not only applies to a contractor but also to its subcontractors and suppliers who have worked or supplied materials for the property.

See The Law and Business Administration in Canada, Part 7, p.696 - 699

Q42. What is the basis for liability in torts?

Answer:

Fault – refers to blameworthy or culpable conduct – conduct that in the eyes of the law is unjustifiable because it intentionally or carelessly disregards the interests of others.

Negligence – anyone who carelessly causes injury to another

Product liability – if a product is defective, it is reasonable to assume that there has been negligence and the manufacturer will be held liable unless there is evidence of some other reason for the defect

Occupier's liability – the duty owed by an owner to visitors of premises varies if the person is an invitee, a licensee or a trespasser

There are a number of other torts such as inducing breach of contract; deceit (misrepresentation); conversion; public nuisance; trespass; assault and battery; false imprisonment and malicious prosecution; defamation; economic torts;

See The Law and Business Administration in Canada, Part 2, p.47 - 65