


# ***STANDARD of PRACTICE***

## ***A Model Acceptable as Correct or Perfect***

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**STANDARD of PRACTICE**  
*A Model Acceptable as Correct or Perfect*



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**STANDARDS**

**What is a Standard of Practice?**

A “standard” is a “type, model or combination of elements acceptable as *correct or perfect*,” according to Black’s Law Dictionary. In the context of land surveying, a standard of professional practice would describe the acceptable elements of “correct” practice.

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**STANDARDS**

**Acceptable as Correct or Perfect:**

We will never reach perfection, therefore we must continue to “practice.” This is why professional activity is considered to be a *practice*, as opposed to technical activity which is never referred to as a practice.

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**STANDARDS**

**Acceptable as Correct or Perfect:**  
“Good judgment comes from experience, and a lot of that comes from bad judgment.”  
Will Rogers

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**STANDARDS**

**Correct Outcome:**  
It would be hard, if not impossible, to create a “standard” of “correct or perfect” practice for any given profession without knowing what is the correct outcome of the professional practice.

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**STANDARDS**

**The Big Three:**  
What are the Big Three Professions and why?

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**STANDARDS**

**The Big Three:**  
 What is their “correct outcome”?

- Clergy – *spiritual well-being of the flock.*
- Doctors – *medical well-being of the patient.*
- Lawyers – *legal well-being of the client.*

What about surveyors?

- Surveyor – *a tight closure?*

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**STANDARDS**

**The Big Three:**  
 Common characteristics of the Big Three:

- *For many it is a calling.*
- *They would do the work even if not paid.*
- *A special relationship with the client.*
- *Their only stock-in-trade is an opinion.*
- **Results matter** and are measured against their standards of practice.
- *They deal with technical matters but are not consumed by them.*
- *They are regulated to protect the public at large.*

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**STANDARDS**

**The Big Three:**  
 The take-away is the focus of correct practice is the *well-being of the client* with whom the practitioner has a special relationship.

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**STANDARDS**

**The Big Three:**  
Mastery of the *technical means and methods* is assumed and can be addressed outside of a professional *Standard of Practice*, generally through a separate set of technical standards that *correct practice* would employ.

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**STANDARDS**

**The Big Three:**  
Since the focus and anticipated outcome of a standard of correct practice is the well-being of the client (or the client's property interest), such a standard would endure the test of time and, in essence, would be *timeless* and *immune to ever-changing technology*.

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**STANDARDS**

**The Big Three:**  
In contrast, a standard of technical correctness would necessarily need *constant technical revision* with each new wave of ever-changing technology.

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**STANDARDS**

**Our Purpose:**  
What is our purpose?

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**STANDARDS**

**Our Purpose:**  
“In order to safeguard health, life, safety, welfare, and property, the practice of land surveying in this state is a learned profession to be practiced and regulated as such, and its practitioners in this state shall be held accountable to the state and members of the public by high professional standards in keeping with the ethics and practices of the other learned professions in this state.”  
§ 34-11-2.(d), Code of Alabama 1973.

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**STANDARDS**

**Our Purpose:**  
Land surveyors are the only people in the United States of America licensed and sanctioned by the state, to render an opinion on the location of property boundaries on the ground. That is, before an action might go to court.

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**STANDARDS**

**Our Purpose:**  
*Given our purpose*, what should a standard of practice for correct outcome for our clients and their adjoining neighbors (also citizens of the state) look like?

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**SURVEY STANDARDS**

**Our Purpose:**  
A standard of professional practice would describe the acceptable elements of “correct” practice (i.e., *correct outcome*). The idea of what is acceptably correct can’t be divorced from the professional standard of care.

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**STANDARD OF CARE**

**Standard of Care:**  
The common law *Standard of Care* for all professional service providers has become universal. It is *the reasonably prudent practitioner standard*.

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**STANDARD OF CARE**

“It is the duty of a land surveyor in his (her) profession to use that degree of knowledge, skill, and care ordinarily possessed and used by members of that profession, and to perform any service undertaken as a land surveyor, in a manner that a reasonably prudent land surveyor would use under the same or similar circumstance.”

*Alabama Pattern Jury Instructions, Sec. 25.20, Malpractice, Non-Medical Professionals.*

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**STANDARD OF CARE**

“The standard of care by which the professional acts of surveyors are measured is a national standard, not a local or regional one. ... Whether a proffered witness is qualified to testify as an expert is a matter to be decided by the trial court in the exercise of its sound discretion.”

*Bell v. Jones, 523 A.2d 982 (D.C.App.1986).*

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**STANDARD OF CARE**

“Surveyors are not insurers of the correctness of their findings but may be held liable for damages caused by breach of their duty to perform a survey with the care, skill, knowledge and diligence expected of a professional surveyor.”

*Highland Lakes v. Nicastro, 966 A.2d 1102 (N.J.Super.A.D. 2009).*

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## STANDARD OF PRACTICE

### Practice Standards v. Technical Standards

The modern trend seems to be to merely rename our old “Minimum Technical Standards” to “Standards of Practice” and call it a day *without serious consideration of the differences between the two*. In other words, you can’t just take some minimum technical standards and rename them “Standards of Practice” and actually have a standard of practice.

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## STANDARD OF PRACTICE

### Standard of Practice:

A Professional Standard of Practice (timeless) and Technical Standards (ever-changing), are two separate subjects, *because they do not cover the same ground*. Although the *Standard of Care* would dictate that correct practice would include compliance with technical standards and any other requirements of practice (e.g., rules and regulations).

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## STANDARD OF PRACTICE

### Standard of Practice:

“I’m very broad minded, except when it comes to other people and new ideas.”  
Accredited to Mark Twain talking about land surveyors.

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**STANDARD OF PRACTICE**

**Standard of Practice:**  
A “standard” of “correct or perfect” practice must necessarily describe a model of practice aimed at achieving the correct outcome of the given professional practice—*fulfilling the purpose*.

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**STANDARD OF PRACTICE**

**Standard of Practice:**  
Based on my research, experience, and discussions with other professionals from all across the country, *no surveying standard in any jurisdiction has successfully described correct surveying practice for correct surveying results*, at least not as correct practice has been *defined and described by our courts*.

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**STANDARD OF PRACTICE**

**What Do the Courts Say?**  
“And whenever it can be proved that there was *a line actually run* by the surveyor, was marked and a corner made, the party claiming under the grant or deed, shall hold accordingly, notwithstanding a mistaken description of the land in the grant or deed.”  
*Riley v. Griffin*, 16 Ga. 141 (Ga.1854).

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**STANDARD OF PRACTICE**

**What Do the Courts Say?**

“*Boundaries may be proved* by hearsay, and by the long acquiescence of parties in a designated boundary as being the true one. Landmarks very frequently are of perishable materials, which soon decay or are destroyed. It is important, therefore, that hearsay, if pertinent and material to the issues between the parties, should be received to establish ancient boundaries.”

*Taylor v. Fomby*, 116 So. 910 (Ala.1897).

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**STANDARD OF PRACTICE**

**What Do the Courts Say?**

“The true location of section corners and lines when lost, with reference to the field notes, *may be aided by the acquiescence and recognition of residents and property owners*. That includes agreements of landowners as to the lines and corners.”

*O’Rear v. Conway*, 83 So.2d 65 (Ala.1955).

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**STANDARD OF PRACTICE**

**What Do the Courts Say?**

“In cases deciding the boundary between two parcels of land, *it is the duty of the surveyors* to follow the original survey lines under which the property and neighboring properties are held notwithstanding inaccuracies or mistakes in the original survey. Stability of boundary lines is more important than minor inaccuracies or mistakes.”

*Froscher v. Fuchs*, 130 So.2d 300 (Fla.App.1961).

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**STANDARD OF PRACTICE**

**What Do the Courts Say?**

“The *purpose of the inquiry* in a boundary dispute action is to locate and follow the footsteps of the original surveyor. Various rules of construction for purposes of ascertaining boundaries have been adopted by the courts to aid in following the surveyor's footsteps. In accordance with these rules the priority of the calls which are found in the original surveyor's field notes is as follows: (1) natural objects; (2) artificial objects; (3) courses; (4) distances; and (5) quantities.”

*United State v. Champion Paper*, 361 F.Supp. 481 (U.S.Dist.1973).

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**STANDARD OF PRACTICE**

**What Do the Courts Say?**

“It has been declared that *all the rules of law adopted for guidance in locating boundary lines* have been to the end that the steps of the surveyor who originally projected the lines on the ground may be retraced as nearly as possible; further, that in determining the location of a survey, the funda-mental principle is that it is to be located where the surveyor ran it.”

*Wood v. Starko*, 197 S.W.2d 255 (Tenn.App.2006).

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**STANDARD OF PRACTICE**

**What Do the Courts Say?**

“The original location of monuments must always prevail, but that when those monuments have disappeared they must be established by the *best evidence the nature of the situation is susceptible of*. Extrinsic evidence, such as an old fence, may have so much greater probative force than more recent surveying measurements as to *prevail over the latter as a matter of law*.”

*Northrop v. Opperman*, 2011 WI 5 (Wisc.2011).

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**STANDARD OF PRACTICE**

**What Do the Courts Say?**

“The time will soon come when the boundary line will have been lost by the destruction of all monuments, natural or artificial, and by the death of the old inhabitants. Then resort must be had to evidence of lesser degree to establish ancient boundaries, and long-continued occupation with respect to unchanged lines, and reputation, even, may be *the best evidence available.*”

*Northrop v. Opperman, 2011 WI 5 (Wisc.2011).*

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**STANDARD OF PRACTICE**

**The Definition of Surveying.**

Our definition of surveying is no help in describing what correct or perfect practice would look like. It actually *provides cover for aberrant practice.*

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**STANDARD OF PRACTICE**

**The Definition of Surveying.**

“Locating, relocating, establishing, reestablishing, or retracing *property lines* or boundaries of any tract of land, road, right of way, alignment or easement or elevation of all real property whether or not fixed works are sited or proposed to be sited on the property.”

34-11-1 (14)b.3. Code of Alabama 1973 (2023 Edition).

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**STANDARD OF PRACTICE**

**The Definition of Surveying.**  
B.4. Practice of Surveying—  
a.2.iii. Performing an original or retracement survey Locating, relocating, establishing, reestablishing, or retracing property lines or boundaries of any tract of land, road, right of way, or easement.

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**STANDARD OF PRACTICE**

**The Definition of Surveying.**  
B.4. Practice of Surveying—  
a.2.viii. Applying surveying measurement and mapping techniques for the elucidation of questions before courts of law and equity (forensic surveys) relating to items i-vii above.

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**STANDARD OF PRACTICE**

**Standard of Practice:**  
In addition, none of these various standards across the country have made a distinction between good professional practice and technical standards to be followed in producing a map. *Therefore, there is no example to draw from.*

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**STANDARD OF PRACTICE**

**Standard of Practice:**  
Nevertheless, *being far from perfect and full of contradictions* we will utilize the 2021 ALTA/NSPS Standards for our discussion because:

- *It is the only national standard we have,*
- *It has made significant strides over the years,*
- *The separation of a standard of practice and the technical standards contained therein is distinguishable, but perhaps not clear to the uninitiated.*

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**STANDARD OF PRACTICE**

**Standard of Practice:**  
And perhaps the ***BIGGEST*** reason is:

- *The title companies endorse the Minimum Standard Detail Requirements For ALTA/NSPS Land Title Surveys.*
- *Why is that important?*
- *Who's in charge of the ALTA standards?*
- *Who's in charge of our state standards?*

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**STANDARD OF PRACTICE**

**Standard of Practice:**  
“It ain’t what you don’t know that gets you into trouble. It’s what you know for sure that just ain’t so.”  
Mark Twain

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**2021 MINIMUM STANDARDS**

**ALTA Standards Breakdown:**

1. **Purpose:** Perhaps the closest to a SOP (i.e., correct results).
2. **Request for Survey:** Standard of practice.
3. **Surveying Standards and Standards of Care:** Mixed bag.
4. **Records Research:** Technical requirements.
5. **Fieldwork:** Technical Requirements.
6. **Plat or Map:** Technical requirements.
7. **Certification:** Technical requirements.
8. **Deliverables:** Technical requirements.

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**2021 MINIMUM STANDARDS**

**Sec.1. Purpose**

For a survey of *real property*, and the plat, map or record of such survey, to be acceptable to a title insurance company for the purpose of insuring title to said real property *free and clear of survey matters* (except those matters disclosed by the survey and indicated on the plat or map), ... [Emphasis added.]

2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, Sec. 1. Effective Date of Feb. 23, 2021. [All emphasized text added.]

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**2021 MINIMUM STANDARDS**

**Sec.1. Purpose**

... certain specific and pertinent information must be presented for the distinct and clear understanding between the insured, the client (if different from the insured), the title insurance company (insurer), the lender, and the *surveyor professionally responsible for the survey*.

2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, Sec. 1.

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**2021 MINIMUM STANDARDS**

**Sec.1. Purpose**

In order to meet such needs, clients, insurers, insureds, and lenders are entitled to rely on surveyors to conduct surveys and prepare associated plats or maps that are of a professional quality and appropriately uniform, ***complete, and accurate.***

2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, Sec. 1.

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**2021 MINIMUM STANDARDS**

**Sec.1. Purpose**

***Complete***, as you will see, means technically correct; a survey that adheres to the ALTA technical standards.

***Accurate***, as you will also see, means correct results; correct results matter to the insurance companies.

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**2021 MINIMUM STANDARDS**

**Sec.1. Purpose**

To that end, and in the interests of the general public, the surveying profession, title insurers, and abstracters, the ALTA and the NSPS jointly promulgate the within details and criteria setting forth a minimum standard of performance for ALTA/NSPS Land Title Surveys. A complete 2021 ALTA/NSPS Land Title Survey includes:

2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, Sec. 1.

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**2021 MINIMUM STANDARDS**

**Sec.1. Purpose**

(i) the on-site fieldwork required pursuant to **Section 5**,  
(ii) the preparation of a plat or map pursuant to **Section 6** showing the results of the fieldwork and its relationship to documents provided to or obtained by the surveyor pursuant to **Section 4**,  
(iii) any information from **Table A** items requested by the client, and  
(iv) the certification outlined in **Section 7**.

2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, Sec. 1.

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**2021 MINIMUM STANDARDS**

**Sec.3.D. Boundary Resolution**

The boundary lines and corners of any property or interest in real property being surveyed (hereafter, the “surveyed property” or “property to be surveyed”) as part of an ALTA/NSPS Land Title Survey **must** be **established and/or retraced** in accordance with **appropriate boundary law principles** governed by the set of facts and evidence found in the course of performing the research and fieldwork.

2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, Section 3.D.

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**THE BOUNDARY LOCATION DOCTRINES**

- Adverse Possession – Title and Location Doctrine
- Common Grantor Doctrine – Location
- Doctrine of Monuments - Location
- Original Surveyor/Following Surveyor – Location
- Lines Actually Run on the Ground – Location
- Acquiescence – Location & Evidence
- Doctrine of Consentable Boundary Lines - Location
- Oral Agreement – Location
- Practical Location – Location
- Repose – Location
- Estoppel – Location
- Junior/Senior Conveyances – Primarily Location

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**2021 MINIMUM STANDARDS**

**Sec.3.E.ii. Measurement Standards** - The following measurement standards address Relative Positional Precision for the monuments or witnesses marking the corners of the surveyed property.

2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, Sec.3.E.ii.

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**2021 MINIMUM STANDARDS**

**Sec.3.E.ii. Measurement Standards**

Any boundary lines and corners established or retraced may have uncertainties in location resulting from (1) the availability, condition, history and integrity of reference or controlling monuments, (2) ambiguities in the record descriptions or plats of the surveyed property or its adjoiners, (3) occupation or possession lines as they may differ from the written title lines, or (4) Relative Positional Precision.

2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, Sec.3.E.ii.

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**2021 MINIMUM STANDARDS**

**Sec.3.E.ii. Measurement Standards**

Of these four sources of uncertainty, only Relative Positional Precision is controllable, although, due to the inherent errors in any measurement, it cannot be eliminated. The magnitude of the first three uncertainties can be projected based on evidence; Relative Positional Precision is estimated using statistical means.

2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, Sec.3.E.ii.

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**2021 MINIMUM STANDARDS**

**Sec.3.E.iii. Measurement Standards**

The first three of these sources of uncertainty must be weighed as part of the evidence in the determination of where, *in the surveyor's opinion*, the boundary lines and corners of the surveyed property should be located (see Section 3.D. above).

2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, Sec.3.E.iii.

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**2021 MINIMUM STANDARDS**

**Sec.3.E.iii. Measurement Standards**

Relative Positional Precision is a measure of how precisely the surveyor is able to monument and report those positions; it is *not a substitute for the application of proper boundary law principles*.

2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, Sec.3.E.iii.

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**2021 MINIMUM STANDARDS**

**Sec.3.E.iii. Measurement Standards**

A boundary corner or line may have a small Relative Positional Precision because the survey measurements were precise, yet still be *in the wrong position* (i.e., *inaccurate*) if it was established or *retraced using faulty or improper application of boundary law principles*.

2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, Sec.3.E.iii.

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**STANDARD OF PRACTICE**

**Results Should Matter:**



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**STANDARD OF PRACTICE**

**Standard of Practice:**

In short, a Standard of Practice would describe the acceptable elements of “correct or perfect” practice. Without such a standard there is nothing to measure results against, and as a consequence, ***Results do not matter, and our Purpose is not achieved.***

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