

Important Notice for all Real Estate Brokers and Salespersons and Minnesota-Approved Real Estate License Education Providers

The GENERAL module course for 2022-2023

Here is additional information concerning the required 2022-2023 continuing education module training course. There is one 3.75-hour module course that both salespersons and brokers must complete. Completion of this course will also satisfy the 1-Hour Broker Module Requirement. In other words, there will be no separate broker module course for 2022-2023.

Completion of this course will also satisfy the 1 hour of Fair Housing and 1 hour of Agency Law as required in §82.61.(c):(1) (2).

Please note that commercial-only salespersons and brokers are exempt from these module requirements and must apply for the commercial-only waiver when the broker submits verification of this between April 1st and June 30th each year on Pulse Portal at www.pulseportal.com. Additional information can be found at <http://mn.gov/commerce/>.

The topic for this module course is: *Practical Application to Inclusive Representation*

All non-exempt salespersons and brokers must complete this general module course before June 30, 2023.

Additional details:

- This course is part of the 15 hours of continuing education that are due each year, not in addition to them.
- To get credit for the general module, you must pass an examination taken at the end of the course. The examination will cover the module content. Each examination will consist of 20 multiple-choice and true/false questions randomly selected from a pool of at least 50. The passing score is 14 or more correct. The examination questions were written by subject matter experts in consultation with the Department of Commerce.
- The Department of Commerce, in consultation with a statewide real estate trade association and a statewide private continuing education provider, determines the specific topic(s) covered by the module(s) each license year and the number of credit hours allocated to each module.

2022/2023 Commerce Required Module Outline:

Course Name: *Practical Application to Inclusive Representation*

3.75 hours (160 min Class w/35 min Exam, + 30 min breaks = Total 225 Min)

(This Module Satisfies the 1-Hour Agency, 1-Hour Fair Housing and the 1-Hour Broker Module Requirements)

Objectives: Upon completion of this course students will be able to:

- Apply objectives learned in 2021-2022 Required module to everyday representation
- Understand the importance of promoting equitable homeownership
- Identify best practices in submitting and receiving offers to avoid discrimination
- Properly respond to common questions asked by clients and customers
- Use inclusive language in advertising and communication
- Identify communication pitfalls

I. Welcome and Course Objectives (5)

II. Access to Homeownership (20 minutes)

- a. Real estate and social responsibility: See a definition [HERE](#) (5)
- b. Promoting homeownership: Learn more [HERE](#) (5)
 - i. Minnesota Homeownership Center
 - ii. Minnesota Housing Finance Agency
- c. Affordable Homeownership
 - i. Down payment and closing costs assistance (5)
 - ii. Affordable loans: [non-interest-bearing financing](#); low & no MI loans)(5)

III. Agency (20 minutes)

- a. How agency is created and terminated (5)
 - ii. Types of Agency (5)
 - iii. Agency Disclosure MN Statute 82.67 (10)

Break

(10 minutes)

IV. Fiduciary Duties and Seller Representation (40 minutes)

- a. Fiduciary Duties (15 minutes)
 - i. Obedience: (**case study #1 & #2**)
 - ii. Loyalty: Client comes first – Representing w/o bias
 - iii. Disclosure
 - iv. Confidentiality
 - v. Reasonable Care

- b. Listing Representation Agreement Sec. 82.55 (10)
- c. Listing Properties (15)
 - i. Clear cooperation Policy- NAR policy 8-0 (case study #3)
 - ii. inclusive language in advertising: [word choice in advertising](#)

Break

10 minutes

V. Receiving offers (30 minutes)

- a. Discriminatory considerations
 - i. Name bias (case study #4) (5)
 - ii. Loan discrimination (case study #5) (10)
 - 1.FHA & VA loans/Down payment assistance
 - iii. multiple offers (15 minutes)
 - iv. multiple offers (case study #6)

VI. Buyer Relationship and Representation (15 minutes)

- a. Buyer Representation Agreement - MN Statutes 82.66 (5)
- b. Homebuyer demographics- Race and Homebuying (NAR report) (10)

BREAK

(10)

VII. Showing homes and Making Offers (30)

- a. Steering: Neighborhood selections (5)
 - i. Providing crime and school data (10) (case study #7)
- b. Making offers
 - i. Buyer letters (10) (case study #8)
 - ii. Appraisal Gaps/Clause (5)

V. Test

(35 minutes)

2022-2023 MN Required Module Case Studies

Case Study #1: Fiduciary Duty of Obedience

According to Jewish law, driving a motorized vehicle is prohibited on Shabbat, which is observed from sundown Friday until Saturday night. Real Estate agent Mai is representing a Jewish client who requests that she finds them a house within walking distance of their synagogue in order to remain compliant with Jewish law. Real estate agent Mai declines to comply with this request because she thinks she may be in danger of performing religious discrimination. The client is upset with Agent Mai and reminds her

that she has a fiduciary duty to obey their requests and by not fulfilling this request she is not truly performing the fiduciary duty to serve the client's interest. They, in turn, claim that Mai is the one who is discriminating.

Explicit forms of discrimination against a protected class is wrong if they limit the buyer's ability to buy a house. But fulfilling a buyers request to either associate with or not associate with a protected class is also wrong. According to the law there is no different between these types of discrimination. To be ethical, an agent must show the buyer a variety of houses that meet the rest of the buyer's criteria, whether the buyer's discriminatory criteria conflicts with the fiduciary duty of obedience or not. The agent may have houses on the list that the client does not like, but in order to obey the law and avoid discrimination, the agent has to show the list of these homes to the client.

Case Study #2: NAR Code of Ethics 10-5, Hate Speech

When searching real estate listings on a brokerage website, a potential homebuyer noticed a listing with the Confederate flag prominently displayed in the property photos. She filed an ethics complaint against the listing broker alleging a violation of Article 10, as interpreted by Standard of Practice 10-3 and Standard of Practice 10-5, at the local Association of REALTORS®. The complainant argued in her complaint that the Confederate flag is a symbol of racial exclusion and that the listing broker's display of the photos conveyed a preference and discrimination based on race. The local Association's Grievance Committee reviewed the complaint and forwarded it for a hearing. At the hearing, the complainant testified that she felt threatened by the display of the Confederate flag and took it to mean that she would not be welcome in the home or the neighborhood if she were to make an offer on the property. The listing broker testified that he should not be held responsible for what is displayed in a client's home and could not offer an explanation for his client's motives in displaying the Confederate flag.

The Hearing Panel concluded that the listing broker is indeed responsible for content he displays publicly when engaging in real estate brokerage. The Hearing Panel also discussed whether the display of the flag indicated an illegal preference or discrimination. Using the standard of whether a "reasonable person" would think display of the Confederate flag conveyed a discriminatory preference, the Hearing Panel determined that the listing broker's inclusion, intentional or not, of photos including the Confederate flag could be reasonably construed as indicating a racial preference or illegal discrimination based on a protected class, and therefore was a violation of Article 10, as interpreted by Standard of Practice 10-3 and Standard of Practice 10-5.

Case Study #3: Clear Cooperation Policy

Real Estate agent Boyd has taken a listing and noted in the MLS that no showings will be available on the property until Friday, when the sellers plan to go on an extended vacation. On Thursday, the sellers inform you that they have left a day early and have already vacated the house. Agent Jones in your office had previously told you that they may have a potential buyer who would be interested in the property, so you contact Agent Jones to let them know that they can now show their client the house this afternoon, a day before it is noted on the MLS that it would be open for showings.

Agent Boyd has violated the Realtor Code of Ethics and the clear cooperation policy. real estate agents are obligated under the Realtor Code of Ethics to cooperate with other brokers, unless it's not in their client's best interest. By allowing another agent in his office to show the home a

day before publicly stating it would be available to see, Agent Boyd has misrepresented the availability of access to the property and has gone against their obligation to share information about the property and make it available to other brokers.

Case Study #4: Name Bias

Real Estate agent Traci has listed a house and received multiple offers on the property. Upon reviewing first page of the offers, the sellers noticed that the name on the most attractive offer was "Ebony". The sellers asked their real estate agent whether Ms. Ebony Jones was "Black." Real estate agent Traci confirmed the buyers race and the sellers purportedly advised her that they would not sell their property to an African American and refused to accept the offer. In response, agent, the agent Traci informed the sellers that she could not continue discussions with them, and immediately reported the conversation to her broker. Agent Traci subsequently withdrew the listing upon the seller's request and ceased all further communication with them.

The agent's decisive and prompt actions in response to the client's fair housing violations were appropriate and helped shield the agent from liability in the lawsuit. Real estate agents who find themselves in a similar situation where a client violates the fair housing laws should be sure to follow these best practices.

- Remind clients of their obligations under the Fair Housing Act, and of your policy not to discriminate.
- Discontinue representation of any client who has made a statement or taken an action in violation of fair housing laws.
- Report the situation to your broker.
- Document the situation in writing, including what actions you took in response to your client's violations.
- If you are unsure whether a client's actions violate fair housing laws, consult with an attorney.

Case Study #5: Loan discrimination

A listing agent is representing a seller and multiple offers have been received. The listing agent advises the clients to select the best offer based on terms of the offer. The listing agent goes on to point out that one of the offers is an FHA loan and cautions the seller on accepting such financing. The listing agent explains that buyers using this type of financing may be less qualified and these types of loans tend to have more stringent requirements and if they want to sell their home with as little frustration as possible it would be best to select an offer with conventional financing.

There is nothing inherently wrong with an FHA loan. In fact, these loans are quite popular and are a great option for many home buyers. The decision to turn down an offer simply because the loan is FHA is a decision that may be based on negative assumptions about the borrower, insecurities about the property or a lack of knowledge on this type of loan. There is nothing illegal about discouraging buyers from accepting offers with certain financing, but doing so may unjustly eliminate a lot of qualified buyers.

Case Study #6: Multiple Offers

Agent A calls Agent B regarding a property that Agent A has listed, which currently has an accepted offer — with contingencies. Agent A wants to know what the status is on offers and contingencies, and Agent B curtly reply, “I’m not at liberty to discuss and it is illegal to share the terms of an offer anyways.”

Agent B just committed an ethics code violation. Article 3 of the Realtor Code of Ethics states: “Realtors shall cooperate with other brokers except when cooperation is not in the client’s best interest. The obligation to cooperate does not include the obligation to share commissions, fees, or to otherwise compensate another broker.” And according to Standard of Practice 3-6, you’re required to disclose the existence of accepted offers, including those with unresolved contingencies. As such, you’re obligated to disclose if an offer has been expected and what the current status is. Additionally, MN Statute Sec. 82.71 Subd. 2 states that a licensee shall not disclose the terms of an offer to another prospective buyer or the licensee representing or assisting the buyer *prior to the presentation of the offer to the seller*. The agent CAN; however, discuss the terms of the offer once it has been presented to the seller.

Case Study #7: Providing Crime and School Data

Real estate agent Terry has received a referral from agent Joseph in another state. Agent Joseph has friends that are moving to town and has told the clients that Real estate agent Terry is an expert in the city they are moving into. Terry meets with the clients and begins showing them homes. Because they are unfamiliar with the city, they occasionally ask Terry about the safety of the neighborhoods and want to know the crime rates to help them make their homebuying decision. To assist the with this, Agent Terry generates crime reports with a variety of crime statistics on every neighborhood in the city and provide them to the new clients.

Agent Terry has committed an ethics code and fair housing violation. Engaging in practices that might potentially sway a buyer toward wanting to live in one neighborhood versus is considered steering under the Fair Housing Act and the National Association of Realtors (NAR) ethics guidelines. To avoid steering, Agent Terry can suggest listings to clients based on a home’s objective features or price point and refer clients to research third parties if they have questions about things like schools, crime or demographics of a neighborhood.

Case Study #8: Buyer love letters

Agent Casey has listed a home and has received multiple offers. One of the offers is accompanied by a buyers love letter. The sellers personally connect with the letter because the buyer has revealed that they have two children the same age apart as the seller’s and they are members of the same faith. Because the seller personally envisions their family growing up in the home they accept their offer. Later, a competing buyer learns that the seller accepted the offer of the other buyer because they had a family and shared the same religion.

This is a fair housing violation. When buyers give away personal details in buyer love letters that might sway sellers, it exposes the seller and the listing agent to liability in a fair housing lawsuit. Licensees should speak with their sellers about not accepting these kinds of letters because of their potential for liability. Of course, if letters only discuss the merits of the house buyers are hoping to win, that may be acceptable, but agents will not likely know the content of a love letter in advance.