



“CONTROL LEGAL ISSUES THROUGH RISK MANAGMENT”



**3 Hours of Legal Issues
Continuing Education by Internet Delivery**

Approved by the Arizona Department of Real Estate

Participant Outline

JOSEPH R. FITZPATRICK

MEET JOE:

Joe Fitzpatrick graduated from The University of Nevada, Las Vegas in 1985 and began his career with Coldwell Banker in Margate, Florida, listing and selling real estate. Joe went on to manage the North Miami office and opened Century 21 Fitzpatrick Realty with family. The firm became the top-ranked Century 21 company in Broward County, Florida.



In 1991, Joe returned to Las Vegas where he began teaching and authoring real estate courses. He also continued on as Vice-President of Century 21 MoneyWorld, which was consistently ranked among the top 10 Century 21 firms in the world where he led the education division among other duties.

Joe has authored and published over 30 real estate licensing textbooks and courses available on Amazon.com and which have been approved for utilization in several states. He made a few stops along the way including being the Education Director at LVR. You may recognize his voice from other online sites. Living through sellers' markets and buyer's markets, Joe has experienced interest rate fluctuations of 17.5% and 2%. He knows what it takes to stay successful in the business no matter what the market conditions may be.

Joe opened Fitzpatrick Real Estate School in both Nevada and Arizona, and continues to practice real estate in addition to his other responsibilities. We trust you will find Mr. Fitzpatrick's courses to be informative, interesting, and entertaining too.

HOW IT WORKS

The student participant must:

- view all hour(s) of the video presentation (links are located on the website under the Internet course title).
- direct attention to the instruction being provided and refrain from engaging in activities unrelated to the instruction and distracting.
- complete the “Online Video Worksheet” included in the course outline as you view the presentation, filling in the “Checkpoints” as they are displayed throughout the videos.
- take the quiz found in the outline.
- complete the course evaluation upon the conclusion of the course.
- submit the (1) Attestation, (2) Quiz answers, (3) Online View Worksheet, and the (4) Course Evaluation using the links provided directly above the videos.
- obtain score of 80% or more on the quiz and a score of 80% must be obtained on the Online Video Worksheet. A student, who tries to skip through the course and not devote the required hours, will not pass. The answers for the worksheet are sprinkled throughout the presentation.
- With a passing score on the quiz and worksheet, along with the submitted evaluation, a certificate will be emailed to you promptly.

ONLINE VIDEO WORKSHEET

The Arizona Department of Real Estate holds CE course sponsors, such as Fitzpatrick Real Estate School, accountable for the following regarding online/distance learning courses:

- verify that students watch the complete presentation and spend the appropriate number of hours required to earn a certificate;
- verify that students did not start the presentation and leave the presentation to run on its own without the student viewing it;
- evaluate the student mastery of the material;
- provide the student with support services and interaction;
- have a method to assess student performance during instruction.

To accomplish these goals, we have developed this “Online Video Worksheet” to accompany the videos we use to teach CE courses online. Throughout the videos, have embedded “checkpoints” that will prompt you to fill in the answers below.

In order to receive credit for the online course, you must answer the checkpoints correctly with a score of 80% and submit using the Online Video Worksheet link located above the three videos.

CHECKPOINT #1: _____

CHECKPOINT #2: _____

CHECKPOINT #3: _____

CHECKPOINT #4: _____

CHECKPOINT #5: _____

CHECKPOINT #6: _____

CHECKPOINT #7: _____

CHECKPOINT #8: _____

CHECKPOINT #9: _____

CHECKPOINT #10: _____

Student Name: _____ Date: _____

Course Title: Control Legal Issues through Risk Management

WHAT IS RISK MANAGEMENT?

As it pertains to a real estate practice, Risk Management, or Risk Reduction, is an ongoing process of identifying future potential threats to the licensee's earnings as a result of litigation, monetary damages, the filing of a formal complaint, or loss of license. Although the subject is mostly of concern to the broker, the concepts of risk management can be extended to all licensees to protect their individual practices.

In this course, we will explain how having a complete risk management plan will help reduce potential legal issues that commonly confront real estate salespersons and brokers.

PART ONE: COMMON AREAS OF RISK:

In the past, common areas where real estate practitioners have found themselves in legal jeopardy include:

- I. Violations of Agency Duties
- II. Failure to Disclose
- III. Misrepresentation and Fraud
- IV. Engaging in the Unauthorized Practice of Law
- V. Violations of Federal Laws pertaining to Real Estate
- VI. Violations of State Real Estate Licensing Laws/Regulations

I. Violations of Agency Duties

Most all disciplinary actions can be placed under a broad header of violations of agency responsibilities. Below is a list of the most common violations of agency.

- did not disclose to all parties as soon as practicable
- did not disclose material facts known or that should have been known
- did not disclose each source of the licensee's compensation
- did not disclose license status when acting as a principal in the transaction
- did not obtain informed consent when a dual agency
- did not exercise reasonable skill and care
- did not maintain obligations of confidentiality
- did not present all offers as soon as practicable
- did not advise the client to obtain advice from an expert when matters are beyond the licensee's expertise
- did not account for all money and property

Generally speaking, a licensee who acts as an agent in a real estate transaction shall disclose as soon as is practicable:

1. Any material and relevant facts, data or information which the licensee knows, or which by the exercise of reasonable care and diligence should have known, relating to the property which is the subject of the transaction.
2. Each source from which the licensee will receive compensation as a result of the transaction.
3. That the licensee is a principal to the transaction or has an interest in a principal to the transaction.
4. If acting as an agent for both parties, must obtain informed, written consent.

A licensee who has entered into a brokerage agreement to represent a client in a real estate transaction:

1. Shall exercise reasonable skill and care with respect to all parties to the real estate transaction.
2. Shall exercise reasonable skill and care to carry out the terms of the brokerage agreement and to carry out his or her duties pursuant to the terms of the brokerage agreement;
3. Shall not disclose confidential information relating to a client after the revocation or termination of the brokerage agreement, unless he or she is required to do so pursuant to an order of a court of competent jurisdiction or is given written permission to do so by the client;
4. Shall seek a sale, purchase, option, rental or lease of real property at the price and terms stated in the brokerage agreement or at a price acceptable to the client;
5. Shall present all offers made to or by the client as soon as is practicable, unless the client chooses to waive the duty of the licensee
6. Shall disclose to the client material facts of which the licensee has knowledge concerning the transaction;
7. Shall advise the client to obtain advice from an expert relating to matters which are beyond the expertise of the licensee; and
8. Shall account for all money and property the licensee receives in which the client may have an interest as soon as is practicable.

Violations of agency are one of the most common areas where licensees have been sued and/or disciplined and is therefore the reason Arizona requires so much ongoing education in agency-related topics.

With risk reduction in mind, salespeople should be well-schooled in agency and be sure to keep agency-related duties front of mind when working with clients. Brokers should be sure to include agency matters in training offered as well as sales meetings. Test your knowledge:

1. A duty owed to the client, that is not owed to the customer is:
 - a. to not deal in a deceitful, fraudulent, or dishonest manner.
 - b. to exercise reasonable skill and care.
 - c. maintain confidential information for at least one year.
 - d. disclose any known material facts.
2. REALTORS® are required to complete mandatory ethics training approved by NAR® at least every:
 - a. one year.
 - b. three years.
 - c. five years.
 - d. There is no such requirement.
3. An agent's fiduciary duties include all of the following EXCEPT:
 - a. accountability.
 - b. confidentiality.
 - c. consideration.
 - d. loyalty.

4. Which type of agency is often used to shield the broker from the liabilities associated with a dual agency relationship?
- a. single agency
 - b. multiple representation
 - c. transactional brokerage
 - d. designated agency

II. Failure to Disclose (Common Areas of Risk)



We have witnessed increasing litigation regarding a licensee's obligation to disclose material and relevant facts. Remember, "A licensee who acts as an agent in a real estate transaction shall disclose to each party to the real estate transaction as soon as is practicable any material and relevant facts, data or information which the licensee knows, or which by the exercise of reasonable care and diligence should have known, relating to the property which is the subject of the transaction."

Note the wording "or which by the exercise of reasonable care and diligence should have known." Although licensees are not expected to investigate the property with the degree of diligence and expertise of that of a home inspector or builder, we are required to notice visible signs of potential and existing problems and fulfill a duty of further inquiry. When representing the seller in a transaction, we must disclose to the buyer, or the buyer's agent, material facts even if such a disclosure would work against the seller's best interests. When representing a buyer, we cannot hide these matters so as to not blow the deal. We cannot remain silent. Failure to disclose (silence) is an act for which licensees may be disciplined.

Exactly what is a "material fact?" A material fact is usually a defect or circumstance that negatively affects the value or desirability of the property. A material fact might cause the buyer to pay less or choose not to purchase at all. A leaking roof that will cost \$17,000 to replace would certainly be a material fact. This is considered a patent defect as it is detectable. A latent defect, however, is not readily seen or spotted, and the licensee is usually not held responsible for such defects unless otherwise known. Even though it may hurt the seller client financially, the material fact must be disclosed. Also, the seller is required to disclose all known defects in the property by means of a property disclosure statement. There are substantial financial consequences the seller could face by not disclosing any known problems or defects prior to the close of escrow.

Check the items that would be considered a material fact:

- ☐ basement floods
- ☐ heating system does not work
- ☐ murder took place in the home
- ☐ toxic mold
- ☐ neighbor's fence extends over subject property line
- ☐ clothes dryer is gas
- ☐ sex offender lives in the neighborhood
- ☐ broken window pane

III. Misrepresentation and Fraud (Common Areas of Risk)

Misrepresentation is considered to be the innocent misstatement of a fact without knowing any better, perhaps even believing the information being communicated is accurate. Often called *negligent misrepresentation*, the licensee did not mean to deceive. As an example, the seller discloses on the SPUDS that there are no problems with the roof (when in fact the roof leaks), which the licensee then communicates to the buyer in saying, “the roof is in good shape”, is negligent misrepresentation. The fact the licensee was just relaying information provided by the seller does not excuse the licensee’s liability in making the misrepresentation and it still a misstatement. The fact that the licensee *thought* the information was correct will not be an adequate defense either. Licensees must put forth a reasonable effort to verify the information being conveyed.

Do not be fooled by the term “innocent” misrepresentation. A real estate lawsuit for innocent misrepresentation, as well as negligent misrepresentation, may still result. An example of negligent or innocent misrepresentation might include quoting the square footage inaccurately even when the information was populated by the MLS.

Fraud involves the deliberate communication of false information or the intentional concealment of the same. *Active fraud* is a situation where the licensee affirmatively said the incorrect thing, while *passive fraud* is where the licensee remained silent such as the failure to disclose a material fact. Regardless of whether the fraud was active or passive, the licensee may still be disciplined with administrative fines and/or suspension, revocation, denying the renewal of, or placing conditions upon the license if found guilty.

The primary distinction between misrepresentation and fraud is *intent*. Both acts equate to the communication by the licensee to a party in the transaction of inaccurate information. Both misrepresentation and fraud are subject to the penalties listed above.

With a risk management hat on, misrepresentation claims might be avoided by adopting the following practices:

- double-check key information, such as square footage
- verify any information provided by the seller
- document all disclosures, and keep records of confirming and sharing them by email
- make sure marketing materials are factual and don’t exaggerate features or hide flaws

E&O insurance might be applicable to a misrepresentation claim, but not litigation based on fraud. Keep in mind, the term is “errors” and “omissions.” Misrepresentation might be due to an error or omission, but certainly fraud would not.

IV. Unauthorized Practice of Law (Common Areas of Risk)

In each real estate transaction, it is normal for the client to ask the licensee’s advice on certain matters. However, when advice becomes legal advice, many states consider this to be the unauthorized practice of law which can lead to disciplinary actions.

If asked a question or opinion on a subject that is beyond the realm of selling real estate, licensees have the duty to recommend the client seek competent legal advice. There have been numerous cases where complaints were filed from such advice. Remember, you are licensed to practice real estate – nothing else.

V. Violation of Federal Laws (Common Areas of Risk)

Real estate licensees must adhere to the following federal laws, among others:

- Civil Rights Act of 1866
- Fair Housing Act of 1968
- Americans with Disabilities Act
- Consumer Credit Protection Act, Truth-In-Lending Act, Regulation “Z”
- Equal Credit Opportunity Act (ECOA)
- Real Estate Settlement Procedures Act (RESPA)

Test your knowledge by matching the federal law with the correct intent of the law:

____ Civil Rights Act	A. to prohibit discrimination in lending based upon certain classes
____ Fair Housing Act	B. to add additional protected classes to existing discrimination law
____ Americans with Disabilities Act	C. requires the disclosure of the APR
____ Consumer Credit Protection Act	D. to prevent discrimination on the basis of race or color in housing
____ Equal Credit Opportunity Act	E. to inform the client of closing costs and prevent kickbacks
____ Real Estate Settlement Procedures Act	F. prevents discrimination against vision impaired, confinement to wheelchair, or hearing impaired

The Civil Rights Act of 1866 provided that all persons born in the United States are declared to be citizens, regardless of race or color, and shall have the right to enter into contracts, to sue, inherit, acquire and dispose of property, and shall equally benefit from the law as do white citizens. Classes protected by this law were race and color.

The Fair Housing Act of 1968 protected four classes or classifications of Americans. Race and color from 1866 and in 1968 covered religion and national origin. Gender was added in 1974 and family status and disability were added in 1988.

The Americans with Disabilities Act primarily deals with physical workplace accommodations for disabled persons. Real estate agents are advised to have an overall understanding of the law and its requirements especially if dealing with landlords and tenants.

The Consumer Credit Protection Act, Truth-In-Lending Act, and Regulation “Z” combined efforts to prevent the potential for the abuse of a borrower by a lender, together with actual abuses which were occurring in the market. The principal purpose of these laws is to provide the consumer with complete and understandable credit information so the consumer can make informed credit decisions. The disclosures and components required by these laws are:

- Finance charges
- Annual Percentage Rate
- Advertising Restrictions
- Three (3) business day right of rescission (on some loans)

The Equal Credit Opportunity Act provides equal access to financing needed and prohibits discrimination in lending based upon certain protected classes.

The Real Estate Settlement Procedures Act's primary purpose is to inform the parties to a covered real estate transaction what the closing costs and charges are, and which costs they pay for. The primary motive behind RESPA is to expose any *kickbacks* which may be occurring.

VI. Violations of State Real Estate Licensing Laws and Regulations (Common Areas of Risk)

Many of the Arizona statutes and regulations that would have been inserted here, were covered in our course “Arizona Commissioner’s Standards.” Please refer to that course for this content.

PART TWO: RECOMMENDATIONS FOR A RISK MANAGEMENT PLAN

Broker-owners – even salespeople – should develop a plan to address risk management and continue to implement such a plan. Components of a sound risk management plan might include:

1. Documentation
2. Policies and procedures
3. Education via training classes and sales meetings
4. Errors and omissions insurance
5. Transaction management

1. Documentation:

By the time an aggrieved consumer files a complaint, the complaint is investigated, a hearing is held or possibly the case goes to court, many months may have passed and the licensee’s memory and recollection of the facts could easily be foggy. Having excellent notes, copies of all paperwork and correspondence and emails, a phone log, and other documentation as applicable will prove to be life-saving.

The broker-owner should determine what documents are required in *every* transaction file, which documents are specific to what types of transaction files, which documents are optional or not required, etc.

2. Policies and Procedures Manual (Recommendations for a Risk Reduction Plan)

Real estate firms should have company policies and procedures manuals in place. It just makes sense to utilize them within their brokerages. A firm will operate much more smoothly when the rules are known and in writing. Similar to any other successful business, a real estate company must have *policies* to maintain order and a professional working environment. *Procedures* must be in place to define how daily operations will be conducted.

Brokers who skip the important step of developing a policy and procedures manual find themselves managing by word of mouth and unwritten rules. Salespeople often get frustrated with working in an environment which is

inconsistent and unprofessional. However, with such a written document, misunderstandings and inconsistent decisions are more likely to be avoided as it presumably guides the behaviors of everyone.

The broker, perhaps with the assistance of management, should decide upon the company's philosophies, standards, ethics, and proceed to develop the policies and procedures. In so doing, leadership can turn to reference books and the internet for guidelines in drafting one. Although it might be helpful to see another firm's manual, the broker should not just stamp the company logo over the other firm's manual and use that one. The broker should take the time necessary to reflect on policies and procedures that will truly create and maintain the culture desired in the office.

The broker may also seek legal counsel to review the final draft. The firm wants to be sure there are no violations of laws and are legally ironclad for protective purposes in the event of a lawsuit.

Below are some recommended items to be addressed in a real estate brokerage firm's policies and procedures manual:

- Smoking
- Drugs and Alcohol
- Dress Code
- Housekeeping Matters
- Sexual Harassment
- Confidentiality and Fiduciary
- Advertising restrictions, especially internet and email
- Do Not Call and Anti-Spam legislation
- Office supplies
- Postage
- Yard Signs
- Advertising
- Internet Marketing
- Antitrust
- Social Media
- Membership with NAR
- Payment of Dues and Office Bill
- Personal Transactions
- Keeping License Current
- Compliance with Federal, State, and Local Laws
- Termination from the Company
- Company Generated Business
- Fair Housing/Discrimination
- Company Philosophy
- Problem Resolution
- Education and Training
- Attendance at Sales Meetings
- Commissions
- Cybersecurity Best Practices

It is highly recommended that the person who creates the policies and procedures manual review state law while drafting the document in a similar fashion we have above. By referencing the law, important issues to address will “pop out” and become apparent for inclusion in the manual. Although the entire manual will not contain purely legal issues, it is necessary these matters be addressed for risk management protection.

Further, policies and procedures should address:

- the real estate transactions performed by a licensee who is associated with the real estate broker;
- documents that may have a material effect upon the rights or obligations of a party to such a real estate transaction;
- the filing, storage and maintenance of such documents;
- the handling of money received on behalf of a real estate broker;
- the advertising of any service for which a real estate license is required; and
- the familiarization by the licensee of the requirements of federal and state law governing real estate transactions, including, without limitation, prohibitions against discrimination.

The real estate broker must evaluate the number of licensees and staff associated with the firm, and the geographic span the offices cover. As an example, the broker might easily supervise five sales associates at one location regarding the advertising of services, but find it impossible to do so for 500 agents in six offices in two states. It is, however, the duty of the broker to monitor compliance regardless of the size of the organization.

Sales associates should be provided a copy of the firm’s policy and procedures manual and become familiar with its contents. Life in the brokerage will be far more simple knowing all the rules.

Sales agents may wish to form a team. Team leaders might consider a team policies and procedures manual in addition to the firm’s document. Note the manual from the firm can never be replaced with a team document, as all licensees ultimately work for the broker and are bound by the rules of the firm.

3. Education: Training and Sales Meetings (Recommendations for a Risk Reduction Plan)

Brokers who offer training sessions and sales meetings are implementing this critical component of a risk management plan. Keeping records of what education you provided, as well as who did and did not attend, will certainly prove to be helpful in demonstrating you have fulfilled your obligations of teaching and supervision. Brokers should keep a file of all training calendars, course outlines, sales meeting dates, and sales meeting agendas.

The sales associate should attend company sales meetings, too. The broker probably will not require your attendance, but weekly meetings are the very best mediums to stay current.

A word of caution about training: At first blush, one would expect everyone to say, “soak up as much education as you can. The more you know, the better the career you will have.” That advice is certainly true, just be careful you do not become a professional student who only goes to classes and never produces. A successful broker once said, “We will have the smartest, broke agents in town!” Try to find the right balance between taking classes and focusing on your real estate sales.

4. Errors and Omissions Insurance (Recommendations for a Risk Reduction Plan)

Lawsuits from Unsatisfied Clients:

Buying and selling property is a serious matter as real estate is usually the most expensive asset the client holds. And, our commissions are quite costly. Clients who believe you have not performed your duties may very well sue the licensees involved.

Professional liability insurance, known as errors and omissions insurance, may protect the licensee in such situations. If the client claims damages because of an error made, this policy may pay defense costs and potential settlements.

Errors and omissions insurance is designed to protect the brokerage, the broker, and perhaps the sales associate in the event of a substantial lawsuit due to an “error” or an “omission.” A policy can be purchased from any number of providers, and they are very expensive. When shopping for policies, read and compare them carefully as there can be huge differences in coverages. Staying with the same insurer for repeated years and maintaining a track record of no filed claims will more than likely lead to pricing advantages. Evaluate the benefits of a larger deductible. You will also want to examine what acts are excluded such as misrepresentation, fraud, or a licensee’s personal transactions.

5. Transaction Management (Recommendations for a Risk Reduction Plan)

All transactions should be reviewed by the broker, manager, or an individual employed by the firm who is qualified. Some firms manually check office files while others use transaction management software. There should be established policies and procedures pertaining to transaction management including who reviewed the file, when, and how often. What are the required documents for each listing, buyer brokerage agreement, sale, and rental? What is the procedure when a required document is missing or incomplete? Were the appropriate disclosures tendered in a timely manner? Did clients receive copies immediately upon signing or within a reasonable time thereafter? Again, if the firm can demonstrate a transaction management system is in place, that will become essential in the firm’s defense in the event of litigation. The goal for such a system is to avoid such litigation altogether.

Transaction management software can prove to be critical in addressing the documentation element of a risk management plan. Once you have it, you’ll wonder how you ever survived without it. The industry started with a checklist of all the documents needed in a file and that worked just fine for decades. As transaction management software evolved, the industry saw benefits such as the upload of documents, missing or incomplete documents, digisign/docuSign digital signatures, and more.

The true benefit is the broker, or transaction coordinator on behalf of the broker, can monitor the flow of transaction documents through the escrow process and serve as a second pair of eyes on each and every file. The broker can monitor the timeliness of when documents are submitted, missing signatures, incomplete forms, poorly prepared documents, and more. By paying attention to these deficiencies, the broker now has content for training and supervision opportunities.

“Risk Management for Real Estate Agents: 12 Best Practices”

Courtesy of Jan O’Brien, RIS Media

Developing best practices and incorporating the recommendations outlined below into your daily real estate business will significantly reduce your liability and help manage the risk of potential litigation as well as complaints filed with the department of real estate or your local REALTOR® Association.

1. **Develop and use standard procedures with everyone.** Review fair housing rules and treat all prospects, customers and clients honestly, fairly and equally.
2. **Keep a communication log** during your transaction. Record your notes, conversations, milestones. If red flags are raised during the transaction or you encounter challenges, it is particularly important to be record the facts and events. If you are using a paperless transaction management system, scan and upload all of your notes, emails and correspondence for your transactions.
3. **Use email to confirm** conversations, verbal agreements, proof of delivering copies of contracts and addenda. If your clients don’t use email, then mail copies of all the contracts and documents they sign via certified or registered mail or use an overnight service like FedEx.
4. **Keep a record of your transaction...**including all paperwork, emails and correspondence. Create a file on your computer and your email to organize your correspondence and documents. Scan your emails and store them online, on a backup device and/or in a paper file.
5. **Rule of three** – always recommend three vendors, contractors, attorneys, lenders, home inspectors, home warranty companies, etc. Consider creating a disclosure with the companies and service providers you recommend and having your clients sign and acknowledge the choices you presented.
6. Always recommend and encourage your clients obtain a **home inspection** and a **home warranty**. Get a written waiver if they choose not to.
7. **Disclose...Don’t Diagnose.** Be the source of the source.
8. **Educate & set the proper expectations** with your clients and customers... for example:
 - a. Explain the short sale process; pros and cons of purchasing a short sale
 - b. Review Earnest Money and what happens with a cancelled sale
 - c. Conduct a seller and buyer interview/qualification with all clients
9. When working with buyers, make sure buyer is ready, willing and able to purchase. If getting a loan, have they started the approval process with a lender? If cash buyer, do they have proof of funds?
10. When working with sellers, ensure they are ready, willing and able to sell. With short sale sellers, ensure you have the sellers complete the short sale packet and all documentation before you list the property. Review and explain personal vs. real property; Arm’s Length transaction and other common issues with short sales.
11. Use a **checklist** to stay on top of all the tasks in a real estate transaction. Include any due diligence and contingency deadlines.
12. **Communicate. Communicate. Communicate.** Often and with all parties to the transaction! Return phone calls and emails promptly.

NAR LAWSUIT SETTLEMENT: Understanding the Settlement and Adjusting Our Practices

QUIZ

1. A risk management plan is designed to protect the licensee from:
 - a. loss of money.
 - b. litigation.
 - c. disciplinary action.
 - d. All of the above
2. What element below is required in a transaction when representing both parties to a transaction?
 - a. agency relationship explained
 - b. SPUDS form signed
 - c. Informed, written consent
 - d. consideration
3. A duty owed to the client, that is not owed to the customer is:
 - a. to not deal in a deceitful, fraudulent, or dishonest manner.
 - b. to exercise reasonable skill and care.
 - c. maintain confidential information.
 - d. disclose any known material facts.
4. REALTORS® are required to complete mandatory ethics training approved by NAR® at least every:
 - a. one year.
 - b. three years.
 - c. five years.
 - d. There is no such requirement.
5. An agent's fiduciary duties include all of the following EXCEPT:
 - a. accountability.
 - b. confidentiality.
 - c. consideration.
 - d. loyalty.
6. Which of the following statements about a material fact is *false*?
 - a. It is a defect or problem with the subject property.
 - b. It negatively impacts the value or desirability of the property.
 - c. A registered sex offender is an example of a material fact.
 - d. Latent defects are hidden.
7. Remaining silent yet having knowledge of a material fact is considered:
 - a. misrepresentation.
 - b. passive fraud.
 - c. active fraud.
 - d. None of the above

8. Which of the following best describes the purpose of a risk management plan in a real estate practice?
- a. To ensure every transaction closes successfully
 - b. To identify and reduce potential threats that could result in lawsuits, fines, or loss of license
 - c. To increase sales volume and client referrals
 - d. To guarantee compliance with home inspection standards
9. A licensee who fails to disclose a known material defect in a property, such as a leaking roof, is at risk of:
- a. Earning a lower commission
 - b. Engaging in misrepresentation or fraud
 - c. Breaching a loan agreement
 - d. Violating advertising restrictions only
10. Which of the following actions would be considered the unauthorized practice of law for a real estate licensee?
- a. Recommending that a client seek legal advice regarding a complex contract
 - b. Explaining the differences between various loan programs
 - c. Filling in blanks on an approved real estate form
 - d. Advising a client on how to structure ownership to minimize tax liability