

FILED
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2012 JUL -9 PM 11:27
OFFICE WEST VIRGINIA
SECRETARY OF STATE

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Registration of Architects

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: West Virginia State Board of Architects

Address: P.O. Box 9125, Huntington, WV 25704-0125

Phone Number: 304-528-5825 Email: lewilex@mail.wvnet.edu

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The amendment to the proposed rule will not have an impact on the costs and revenue of the state government agency Board of Architects.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

| FISCAL YEAR | | | | |
|-----------------------------|-------------------------------------|----------------------------------|--|------|
| Effect of Proposal | Current Increase/Decrease (use "-") | Next Increase/Decrease (use "-") | Fiscal Year (Upon Full Implementation) | |
| 1. Estimated Total Cost | 0.00 | 0.00 | | 0.00 |
| Personal Services | | | | |
| Current Expenses | | | | |
| Repairs & Alterations | | | | |
| Assets | | | | |
| Other | | | | |
| 2. Estimated Total Revenues | 0.00 | 0.00 | | 0.00 |

Rule Title:

Registration of Architects

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3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

There will not be an financial impact on the fees of the West Virginia State Board of Architects.

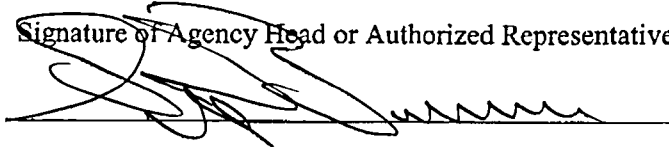
MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

N/A

Date: 7/1/12

Signature of Agency Head or Authorized Representative



**Statement of Circumstances Requiring Amendment to
TITLE 2
LEGISLATIVE RULE
BOARD OF ARCHITECTS
SERIES 1
REGISTRATION OF ARCHITECTS**

Amendments and corrections to the Rules of Registration of Architects have been made to bring our rules into compliance with current standards for registration and practice of architecture as adapted by the National Council of Architectural Registration Boards to amend the time frame that Professional Development Hours for Continuing Education Credits may be taken.

Other amendments were made to update the language of the registration rules for the practice and registration of architecture for licensed architects in the state of West Virginia.

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**TITLE 2
LEGISLATIVE RULE
BOARD OF ARCHITECTS**

**SERIES 1
REGISTRATION OF ARCHITECT**

§2-1-1. General.

1.1. Scope. -- This Rule interprets and implements W. Va. Code §30-12-1, et seq., establishing the Board, and conferring upon it responsibility for registration of architects and the regulation of the practice of architecture.

1.2. Authority. -- W. Va. Code §§30-12-1, 30-12-3 and 30-1-7a.

1.3. Filing Date. -- May 6, 2009

1.4. Effective Date. -- May 6, 2009

§2-1-2. Definitions.

2.1. Terms Defined by Statute -- Terms defined in W. Va. Code §30-12-2 have the same meanings when used in this rule unless the context or subject matter clearly requires a different interpretation.

2.2. Terms Defined -- As used in this rule, the following terms have the following meanings unless the context or subject matter clearly requires a different interpretation:

2.2.1. Applicant -- An individual who has submitted an application for initial registration or registration renewal to the Board.

2.2.2. A-R-E-® -- the current Architect Registration Examination® prepared by NCARB.

2.2.3. Calendar Year -- a twelve month period beginning on January first and ending on December thirty first.

2.2.34. “Certificate,” “license” or “registration” means the certificate of registration issued by the Board to registered architects pursuant to W. Va. Code §30-12-1 et seq.

2.2.5. Commercial Structure -- Any privately, corporately, or publically owned structure used for interchange of goods, commodities, trades, services, education, social relations, entertainment, and/or which may be used by the general public as transient visitors or as employees.

2.2.6. Continuing Education -- Post-licensure learning that enables a registered architect to increase or update knowledge of and competence in technical and professional subjects related to the practice of architecture to safeguard the public's health, safety, and welfare.

2.2.7. Continuing Education Hour -- One continuous instructional hour spent in Structured Educational Activities intended to increase the architect's knowledge and competence in Health, Safety, and Welfare Subjects.

2.2.48. Division -- A unit of the A:R:E-® that tests the applicant's knowledge of a certain subject area.

2.2.59. Emeritus Architect – A registrant who has retired from the active practice of architecture and meets the criteria established in this rule.

2.2.610. Examination -- The ~~current~~–Architect Registration Examination® (A:R:E-®), prepared by and administered through NCARB, as accepted by the Board.

2.2.711. “Felony” means a felony related to the fitness of an architect to practice architecture, including those crimes that have dishonesty as a fundamental and necessary element. Felonies that, upon conviction, constitute grounds for disciplinary action by the Board include, but are not limited to:

2.2.711.a False swearing or perjury in a court proceeding related to the applicant's practice of architecture;

2.2.711.b. Felonies involving theft, bribery, embezzlement, forgery, falsification or destruction of records, fraud or misrepresentation; and

2.2.711.c. Any other felony offense demonstrating a lack of business integrity or business honesty.

2.2.812 Fiscal Year – a twelve month period beginning on July first and ending on June thirtieth.

2.2.13. Health, Safety, and Welfare Subjects -- Technical and professional subjects that the Board considers appropriate to safeguard the public and that are within the following enumerated areas necessary for the proper evaluation, design, construction, and utilization of buildings and the built environment.

BUILDING SYSTEMS: Structural, Mechanical, Electrical, Plumbing, Communications, Security, Fire Protection

CONSTRUCTION CONTRACT ADMINISTRATION: Contracts, Bidding, Contract Negotiations

CONSTRUCTION DOCUMENTS: Drawings, Specifications, Delivery Methods

DESIGN: Urban Planning, Master Planning, Building Design, Site Design, Interiors, Safety and Security Measures

ENVIRONMENTAL: Energy Efficiency, Sustainability, Natural Resources, Natural Hazards, Hazardous Materials, Weatherproofing, Insulation

LEGAL: Laws, Codes, Zoning, Regulations, Standards, Life Safety, Accessibility, Ethics, Insurance to protect Owners and Public

MATERIALS and METHODS: Construction Systems, Products, Finishes, Furnishings, Equipment

PRE-DESIGN: Land Use Analysis, Programming, Site Selection, Site and Soils Analysis, Surveying

PRESERVATION: Historic, Reuse, Adaptation

2.2.914. IDP -- Intern Development Program as developed and administered by NCARB.

2.2.1015. IDP Applicant -- An individual who has completed the IDP training requirements and who has submitted an application to NCARB.

~~2.2.11. Individually Planned Educational Activities -- Educational activities in which the teaching methodology primarily consists of the architect himself or herself addressing Public Protection Subjects which are not systematically presented by others, including reading or writing articles on those subjects, studying or researching building types, designs or building systems, rendering services to the public, advancing the profession's and the public's understanding of the practice of architecture and other similar subjects.~~

2.2.1216. Intern -- An individual in the process of satisfying this registration Board's training requirements. This includes graduates from accredited architectural programs, architecture students who acquire acceptable training prior to graduation, and other qualified individuals identified by these regulations.

2.2.17. Multi-family Residential Structure -- Residential structures including apartments, condominiums, and dormitories, having three or more residential units.

~~2.2.13~~18. NAAB -- The National Architectural Accrediting Board.

2.2.419. NCARB -- The National Council of Architectural Registration Boards.

2.2.4520. Principal -- An individual who is (a) a registered architect and (b) in charge of an organization's architectural practice,

either alone or with other registered architects.

~~2.2.16. Professional Development Unit — One continuous instructional hour spent in either Structured Educational Activities or Individually Planned Educational Activities intended to increase the architect's knowledge and competence in Public Protection Subjects.~~

2.2.1721. Professional negligence -- means negligence demonstrating a wanton indifference to the interests of the public that caused, or that had a substantial likelihood of causing, serious harm to the public. A civil judgment for malpractice in the practice of architecture is not conclusive proof that an architect is guilty of professional negligence sufficient to support the imposition of professional discipline.

2.2.22. Prototypical Building -- Any commercial building or space within a commercial building that is intended to be constructed in multiple locations and in fact then has been constructed in multiple locations and which conveys an owner's intended uniform business program, plan, or image.

2.2.23. Prototypical Building Documents -- Technical submissions for prototypical buildings that are prepared by or under the responsible control of an architect then registered in any United States jurisdiction and holding a current and valid certification issued by NCARB that identify such architect together with the architect's registration number, jurisdiction of registration, and NCARB certificate number and that are marked "Prototypical Design Documents Not for Construction". Prototypical building documents do not comprise a final, comprehensive set of design and construction documents because a prototypical building also requires adaptations for the local conditions, including site conditions and local codes, and may require additional design as well.

~~2.2.18. Public Protection Subjects — Technical and professional subjects which the Board considers appropriate to safeguard directly the public's health, safety and welfare. The subjects include building design, environmental or land use analyses, life safety, sustainable design, architectural programming, site and soils analyses, accessibility,~~

~~structural systems considerations, lateral forces, building codes, evaluation and selection of building systems, products or materials, construction methods, contract documentation, construction administration and other similar subjects.~~

2.2.1924. Reinstatement -- The process of restoring an architectural registration after either an intervening period of inactive status of between twelve months and five years or a period of emeritus status of any length.

2.2.2025 Renewal -- The process of continuing an active architectural registration from one fiscal year to the next with either no intervening period of inactive status or an intervening period of inactive status of less than twelve months.

2.2.2126. Responsible Control -- That amount of control over and detailed professional knowledge of the content of technical submissions during their preparation as is ordinarily exercised by a registered architect applying the required professional standard of care: including but not limited to an architect's integration of information from manufacturers, suppliers, installers, the architect's consultants, owners, contractors, and other sources the architect reasonably trusts that is incidental to and intended to be incorporated into the architect's technical submissions if the architect has coordinated and reviewed such information. Other review, or review and correction, of technical submissions after they have been prepared by others does not constitute the exercise of responsible control. Responsible control does not mean reviewing, or reviewing and correcting of technical submissions after they have been prepared by others because the reviewer has neither control over nor detailed professional knowledge of the content of such submission throughout their preparation.

2.2.2227. Structured Educational Activities -- Continuing Educational activities in which the teaching methodology consists primarily of the systematic presentation of Public Protection-Health, Safety, and Welfare Subjects by qualified individuals or organizations, including monographs, courses of study taught in person or by correspondence, organized lectures, presentations or workshops and other means through which identifiable technical and professional

subjects are presented in a planned manner.

2.2.2328. "Willful departure from accepted standards of professional conduct" means:

2.2.2328.a. Default on obligations owed to the state in connection with the practice of architecture, including but not limited to obligations under the West Virginia workers' compensation act, the West Virginia unemployment compensation act, and West Virginia state tax and revenue laws;

2.2.2328.b. Willful failure to substantially perform in accordance with the terms of a contract or subcontract;

2.2.2328.c. Performance in violation of standards established by law or generally accepted standards for the practice of architecture amounting to intentionally deficient or grossly negligent performance on a contract;

2.2.2328.d. Specification of substandard materials, or design defects amounting to intentionally deficient or grossly negligent performance; or

2.2.2328.e. Any other cause of a serious and compelling nature amounting to knowing and willful misconduct in the practice of architecture.

§2-1-3. General Provisions.

3.1. Board Meetings. -- The Board shall hold a minimum of two (2) regular meetings annually as set by the Board. All regular meetings shall be held at a time and place designated by the Board president. Special meetings may be called by the secretary at the direction of the president or upon the written request of any three (3) Board members. All special meetings shall be held at a time and place designated by the board member(s) that called the meeting. All regular meetings shall be held at a time and place designated by the Board.

3.2. Election of officers. -- At the last anticipated regular or special

meeting during any fiscal year, the Board shall elect from its members a president and a secretary, to take office at the beginning of the next fiscal year, and to hold office until the end of that fiscal year or until their successors have been duly elected.

3.3. Office of the Board. -- The office of the Board shall be at a place and location as designated by the Board.

3.4. Compensation. -- Board members shall be compensated as stipulated by law.

3.5. Seal. -- The Board shall adopt a seal for its own use, inscribed with the words "BOARD OF ARCHITECTS -- WEST VIRGINIA" which it shall maintain in the office of the Board. It shall be used on all certificates, renewal cards and other official documents. The seal shall be applied to all certificates of registration issued by the Board.

3.6. President. -- The president shall preside at all meetings and he or she shall appoint any necessary committees, sign all certificates of registration and renewal cards issued and sign all minutes after approval. The president may issue a call for special meetings through the secretary. In the event the president is unable to attend a regular or special meeting, the president shall designate a Board member to serve as presiding officer or in the absence of a designation by the president, a quorum of Board members may choose a presiding officer.

3.7. Secretary. -- The secretary shall conduct all duties as prescribed by law. These duties may be performed with the assistance of employed personnel as required. ~~The Board shall furnish a bond for the secretary as required by law. The Board shall pay for the bond out of the Board funds.~~

3.8. Order of Business. -- The order of business shall be as stipulated in Roberts Rules of Order.

3.9. Quorum. -- Four (4) Board members constitute a quorum, but action shall not be considered to have been taken on any matter unless there are three (3) votes in accord.

3.10. Certificates of Registration. -- The Board shall issue certificates of registration to a qualified applicant for registration or reciprocal registration upon payment of the required fee established by Board of Architects rule, Fees for Registration of Architects, 2CSR2. An applicant is qualified when he or she meets the qualifications set forth in the law W. Va. Code §30-12-4 and this rule.

3.11. Public Information.

3.11.1. The Board shall maintain ~~at its offices~~ a roster of registered architects, which is open to public inspection, and which shall show each registered architect's name, certificate of registration, good standing, and last known mailing address provided to the Board.

3.11.2. The following documents shall not be treated as a public record pursuant to W. Va. Code §29B-1-1, et seq., or otherwise disclosed to an applicant or any other member of the public:

3.11.2.a. The A-R-E-® and all documents relating to the grading content, administration, or security thereof of the examination;

3.11.2.b. Letters of recommendation;

3.11.2.c. Social Security numbers; and

3.11.2.d All documents exempt from disclosure by the provisions of W. Va. Code §29B-1-4.

3.12. ~~Communication.~~ ~~Prohibition of improper~~ ~~Improper contacts~~ Contacts. -- Prior to the filing of an application for registration or the commencement of any disciplinary action, and after final Board action on an application or disciplinary action, verbal and written communication with individual Board members or the Board' staff shall be freely permitted; provided, however, that in no event is any member of the Board or its staff authorized to give any indication of what specific action the Board may take upon the merits of any application or disciplinary action. General advice, however, may be given as to the manner of completing or submitting applications, the procedures to be followed in processing applications or responding to disciplinary actions

and the nature of the standards applied by the Board in evaluating applications or disciplinary actions. While an application for registration or enforcement proceeding is pending before the Board, ~~an applicant or licensee may not~~ no one shall initiate any written or oral communication with individual Board members concerning the matter. All inquiries shall be made orally or in writing to the Board staff or in writing to the Board.

3.13. Availability of Forms. -- Any forms prepared in accordance with this rule are available electronically on the Board's web site or a printed copy by mail or an electronically transmitted copy upon request to the Board.

§2-1-4. Applications for Registration.

4.1. Submission of Applications. -- An applicant for ~~a certificate of~~ registration shall submit an application to the Board on a form as prescribed by the Board accompanied by the non-refundable filing fee established by Board of Architects rule, Fees for Registration of Architects, 2CSR2.

4.2. Supplemental Material. -- Material submitted to supplement any previously filed application shall include copies of the originally submitted application and all material filed with that application.

§2-1-5. Registration Standards.

5.1. Registration Standards.

5.1.1. To be ~~eligible for a certificate of~~ granted registration other than pursuant to §2.1.6, an applicant shall meet the requirements set forth in this section:

5.1.1.a. Be of good moral character as verified by employers and registered architects;

5.1.1.b. Hold a professional degree in architecture from a degree program that has been accredited by the NAAB (or an equivalent foreign organization recognized by NCARB under a reciprocal agreement) not later than two (2) years after the last date the applicant

was enrolled in the degree program, or have satisfied the education requirements as specified in the NCARB's ~~most current~~ education standard as accepted by the Board;

5.1.1.c. Meet all training requirements under the IDP system as stipulated by NCARB and as accepted by the Board; and

5.1.1.d. Have passed the ~~A-R-E-®~~ in accordance with the NCARB pass/fail standards current at the time the applicant took the Examination, as accepted by the Board.

5.1.2. The Board may consider other experience as a substitution for the registration requirements ~~outlined-set forth~~ in this section if the Board considers the experience to be equivalent to or better than the registration requirements. The burden shall be on the applicant to show by clear and convincing evidence the equivalency or better of such other experience.

5.1.3. In evaluating an applicant's records, the Board shall apply the standards as set forth by NCARB.

5.1.4. ~~Prior to granting a certificate of registration~~When evaluating qualifications, the Board may, prior to reaching its decision, require substantiation of the quality and character of the applicant's experience, notwithstanding the fact that the applicant has complied with the technical registration requirements set forth in this section.

§2-1-6. Reciprocal Registration.

6.1. Registration of NCARB Certificate Holders. -- ~~The Board shall register an~~ An applicant who holds a current and valid certification issued by the NCARB, and submits satisfactory evidence of that certification to the Board shall be registered without the necessity of complying with ~~and meets the degree requirement of paragraph 5.1.1.b. of this rule or the requirements of subdivision 5.1.2. of this rule without the necessity of complying with the remainder of the provisions of subdivision 5.1.1. of this rule if he or she:~~

6.1.1. Holds a current and valid registration issued by a registration authority recognized by the Board, and submits satisfactory evidence of that registration to the Board; and

6.1.2. Files a completed West Virginia Board of Architects application form as prescribed by the Board containing information ~~acceptable~~ satisfactory to the Board concerning the applicant, as the Board considers pertinent, and pays the applicable fee established by the Board.

6.2 Reciprocal Registration of Non-NCARB Certificate Holders –
The Board may award reciprocal registration to an applicant who meets the requirements of subdivisions 6.1.1 and 6.1.2 of this rule and:

6.2.1 who has passed the A-R-E®; and

6.2.2 who has completed five years of practical experience after ~~receipt of~~ registration as an architect in any states or jurisdictions recognized by NCARB. This practical experience shall be obtained either (1) as a practicing registered architect in another state or jurisdiction, or (2) under the direct supervision of a registered architect in any state or jurisdiction.

§2-1-7. Examination.

7.1. Nature of Examination. -- The Examination used by the Board to determine eligibility for registration is the current A-R-E®, as accepted by the Board.

7.2. Frequency of Examination. -- The Board shall follow NCARB's policies on scheduling and retaking the Examination.

7.3. Conditions of Examination.

7.3.1. An applicant may take the examination at any NCARB-approved test center, whether or not it is located within the state of West Virginia.

7.3.2. The Board shall accept the pass/fail determination of

NCARB as the result of the examination, and shall report the result to the applicant.

7.3.3. If there is any alleged misbehavior on the part of an applicant in connection with taking the examination, the Board will investigate the allegation, and if determined to be true, the Board will take appropriate disciplinary action. Misbehavior may include, without limitation, violation of NCARB's guidelines or policies, or an applicant's confidentiality agreements with respect to the examination.

§2-1-8. Registration.

8.1. Issuance. -- When the Board has determined that an applicant for ~~a certificate of registration~~ has satisfied the registration standards set forth in this rule, the Board shall issue a certificate of registration containing the registered applicant's name and registration number.

8.2. Duration. -- Each registration issued by the Board is valid for one (1) fiscal year. Active registration may be verified electronically on the Board's web site.

8.3. Renewal. -- A registered architect may renew his or her registration in accordance with W. Va. Code §30-12-5. An application shall be available electronically or by mail upon request by the registrant.

8.4. Continuing Education-- In addition to all other requirements for registration renewal, a registered architect must complete the required Continuing Education each calendar year, or be exempt from these requirements as provided below. For renewals starting in a fiscal year, the Continuing Education Hours from the previous calendar year shall apply. Failure to comply with these requirements will result in non-renewal of the architect's registration.

8.34.1. Continuing Professional Development Education Requirements. -- ~~To renew or reinstate registration, in addition to all other requirements, a~~ registered architect shall acquire twelve (12) Continuing Education Hours Professional Development Units for each fiscal calendar year since his or her last renewal or initial registration, as the case may be, ~~for a maximum of two fiscal years,~~ or be exempt from

~~these continuing professional development education requirements, as provided in this subsection. All twelve Professional Development Units Continuing Education Hours shall be obtained in Public Protection Health, Safety, and Welfare Subjects acquired in Structured Educational Activities. Each registrant shall be responsible for maintaining their own record of completed Continuing Education Hours for a minimum of the previous two calendar years. Individually Planned Educational Activities are not acceptable for the required twelve Professional Development Units. The Board shall not renew an architect's certificate of registration if the architect fails to comply with these requirements.~~

8.34.2. A registered architect may not carry over ~~Professional Development Units~~ Continuing Education Hours acquired for any ~~fiscal~~ calendar year to a subsequent ~~fiscal~~ calendar year. The registered architect may acquire the ~~Professional Development Units~~ Continuing Education Hours within any jurisdiction.

8.34.3. Audit Reporting and Record keeping ~~Keeping~~. -- ~~The Board shall verify compliance with Continuing Education requirements by auditing five percent of registrants, selected randomly by the Board. A registrant that has been selected for audit registered architect shall complete and submit on forms prescribed or accepted by the Board certifying that he or she has acquired the required Professional Development Units Continuing Education Hours. The information provided on these forms shall~~ Forms may be audited by the Board for verification of compliance with the requirements. A registered architect shall retain records demonstrating completion of all Professional Development Units claimed for two years after submission of the form. If the registered architect is deficient in meeting the required Professional Development Units Continuing Education Hours, or if the Board disallows any Professional Development Units Continuing Education Hours claimed in good faith, the architect has ~~six months~~ sixty calendar days from notice of the non-compliance to provide evidence of completion of Continuing Education Hours Professional Development Units equal to the deficiency or disallowance. If the architect remedies the non-compliance by acquiring and reporting new Continuing Education Hours Professional Development Units, those Units hours may not also be used to satisfy the requirement for the next reporting period.

8.34.4. Exemptions. An architect is not subject to the requirements of subdivision 8.4.1, 8.34.2 and 8.34.3 of this subsection if

8.34.4.a. The architect has been granted inactive or Emeritus status by the Board and is not engaged in the practice of architecture: or

8.34.4.b. The architect otherwise meets all renewal requirements and is called to active ~~duty in the armed forces of the United States~~ military service for a significant period of time, is ill or disabled for a significant period of time or can demonstrate to the Board another similar hardship: or

8.34.4.c. The architect otherwise meets all renewal requirements and is registered in any other state or territory of the United States which has continuing professional development requirements, which the architect has met: Provided, that the other jurisdiction accepts satisfaction of West Virginia's continuing professional development requirements as meeting its own.

8.45. Not Transferable. -- A ~~certificate of~~ registration is not transferable.

8.56. Denial, Revocation, Suspension, Cancellation or Non-Renewal of Registration. -- In the event of the denial, revocation, cancellation, suspension or non-renewal of any ~~certificate of~~ registration, the registered architect shall immediately discontinue the Practice of Architecture in this jurisdiction and return his or her certificate of registration to the Board. The applicant or licensee may appeal the Board's decision. The Board shall conduct an appeal pursuant to W.Va. Code §§30-12-8, 30-12-9 and 30-1-8.

8.67. Renewal. -- The terms of renewal of a ~~certificate of~~ registration shall be in accordance with the Boards rule, Fees, W. Va. Code §30-12-5, and the applicable portions of W. Va. Code §30-12-9.

8.67.1 The Board shall issue notices for renewal of registration to all active registrants not later than the first day of June of each year.

8.67.2 The maximum period of inactive status for which a ~~certificate-registration~~ may be renewed is twelve months from the renewal date, after which time the inactive registrant may seek reinstatement of their ~~certificate-of-registration~~.

8.78. Reinstatement. -- The terms of reinstatement of a ~~certificate-of-registration~~ shall be in accordance with the Boards rule, Fees, W. Va. Code §30-12-5, and the applicable portions of W. Va. Code §30-12-9.

8.78.1 The maximum period of inactive status for which a ~~certificate-registration~~ may be reinstated is five years after the renewal date, after which time the inactive registrant may seek a new registration in accordance with sections 4 through 8 of this rule.

8.89. Practice prohibition. -- An architect who does not renew his or her ~~certificate-of-registration~~ is placed on inactive status and may not practice architecture in the state of West Virginia.

8.910. Emeritus Status -- Registrants who are retired from the active practice of architecture and who are 65 years of age or older may request emeritus status by filing the application showing compliance with this section. A registrant that has been granted emeritus status may use the title "~~architect~~Architect" but may not practice architecture as defined in §30-12-2 (5). Emeritus status licensees are exempt from continuing education requirements. Additionally, the Board may grant a registrant who has become incapacitated emeritus status regardless of age.

8.910.1 Emeritus status registrants may be reinstated to the active practice upon proper application and completion of twelve (12) ~~professional development units~~Continuing Education Hours in accordance with subdivisions 8.34.1 and 8.34.2 of this rule within the 12 months prior to application for reinstatement.

8.910.2 Fees required -- An ~~emeritus~~Emeritus licensee seeking reinstatement to active practice shall pay ~~all applicable fees, not to exceed the current license fees~~a fee equal to the annual renewal fee.

§2-1-9. Rules of Professional Conduct.

9.1. Competence.

9.1.1. In engaging in the practice of architecture, a registered architect's primary duty is to protect the public's health, safety, and welfare. In discharging this duty, a registered architect shall act with reasonable care and competence, and shall apply the technical knowledge and skill which are ordinarily applied by a registered architect of good standing, practicing in the same locality.

9.1.2. In designing a project, a registered architect shall take into account all applicable state, county, and municipal building laws ~~and rules and ordinances~~. While a registered architect may rely on the advice of other professionals (e.g., attorneys, engineers and other qualified persons) as to the intent and meaning of these laws and rules and ordinances, once having obtained their advice, a registered architect shall not knowingly design a project in violation of those laws ~~and rules and ordinances~~.

9.1.3. A registered architect shall undertake to perform professional services only when he or she, together with those whom the registered architect may engage as consultants, is qualified by education, training and experience in the specific technical areas involved. The Practice of Architecture shall include the coordination of any elements of technical submissions prepared by others including, as appropriate and without limitation, consulting engineers and landscape architects. The practice of architecture shall not include the practice of engineering as defined in W. Va. Code §30-13-3 (e), but an architect may perform such engineering work as is incidental to the practice of architecture and for which the architect, through education, training, or experience, is competent to perform.

9.1.4. No individual shall be permitted to engage in the practice of architecture if, in the Board's judgment, the individual's professional competence is substantially impaired by physical or mental disabilities.

9.2. Conflict of Interest.

9.2.1. A registered architect shall not accept compensation for

his or her services from more than one party on a project unless the circumstances are fully disclosed to and agreed to by the architect and all interested parties. The disclosure and agreement shall be in writing.

9.2.2. If a registered architect has any business association or direct or indirect financial interest which is substantial enough to influence his or her judgment in connection with the performance of professional services, the registered architect shall fully disclose in writing to his or her client or employer the nature of the business association or financial interest. If the client or employer objects to the association or financial interest, the registered architect shall either terminate the association or interest or offer to give up the commission or employment.

9.2.3. A registered architect shall not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing their products. As used herein, 'compensation' shall not mean customary and reasonable business hospitality, entertainment, or product education.

9.2.4. When acting as the interpreter of building contract documents and the judge of contract performance, a registered architect shall render decisions, impartially, favoring neither party to the contract.

9.3. Full Disclosure.

9.3.1. A registered architect, making public statements on architectural questions, shall disclose when he or she is being compensated for making the statements or when the architect has an economic interest in the issue.

9.3.2. A registered architect shall accurately represent to a prospective or existing client or employer his or her qualifications and the scope of his or her responsibility in connection with work for which he or she is claiming credit.

9.3.3. If, in the course of his or her work on a project, a registered architect becomes aware of a decision made by his or her employer or client, against his or her advice, which violates applicable

state or municipal building laws and rules or ordinances which will, in the registered architect's judgment, materially and adversely affect the safety to the public of the finished project, the registered architect shall:

9.3.3.a. Report the decision to the local building inspector or other public official charged with the enforcement of the applicable state, county, or municipal building laws and rules or ordinances;

9.3.3.b. Refuse to consent to the decision; and

9.3.3.c. In circumstances where the registered architect reasonably believes that other similar decisions will be made notwithstanding his or her objections, terminate his or her services with respect to the project unless the registered architect is able to cause the matter to be resolved by other means. If the registered architect terminates his or her services he or she has no liability to his or her client or employer on account of the termination.

9.3.4. A registered architect shall not deliberately make a materially false statement or fail deliberately to disclose accurately and completely a material fact requested in connection with his or her application for a registration or renewal thereof or otherwise lawfully requested by the Board.

9.3.5. A registered architect shall not assist the application for registration of an individual known by the registered architect to be unqualified in respect to education, training, experience or character.

9.3.6. A registered architect possessing knowledge of a violation of the provision set forth in subdivisions 9.1 through 9.7 of this rule by another registered architect shall report that knowledge to the Board.

9.4. Compliance with Laws.

9.4.1. A registered architect shall not, in the conduct of his or her practice, knowingly violate any state or federal criminal law.

9.4.2. A registered architect shall neither offer nor make any payment or gift to a government official, whether elected or appointed,

with the intent of influencing the official's judgment in connection with a prospective or existing project in which the registered architect is interested. Political campaign contributions in accordance with state law are exempted from this requirement.

9.4.3. A registered architect shall comply with the registration laws and rules governing his or her professional practice in this state and other jurisdictions in which he or she practices. An architect may be subject to disciplinary action if, based on grounds substantially similar to those which lead to disciplinary action in this jurisdiction, the architect was disciplined in any other United States jurisdiction.

9.5. Professional ~~Conduct~~ Practices.

9.5.1. Each office in West Virginia maintained for the preparation of drawings, specifications, reports or other ~~professional work~~ technical submissions shall have a registered architect regularly employed and residing in that office having responsible control of all work.

9.5.2. All technical submissions, which are (a) required by public authorities for building permits or regulatory approvals, or (b) are intended for construction purposes, including all addenda and other changes to such submissions, shall be sealed with the impression of the seal and signature of the registered architect. The signature and seal shall mean that the registered architect was in responsible control over the content of such technical submission during their preparation and has applied the required professional standard of care. A registered architect may sign and seal technical submissions only if the technical submissions were (i) prepared by such architect; (ii) prepared by persons under such architect's responsible control; (iii) prepared by another registered architect if the signing and sealing architect has reviewed the other architect's work and either has coordinated the preparation of the work or has integrated the work into his or her own technical submissions; or (iv) prepared by another architect registered in any United States jurisdiction and holding a current and valid certification issued by NCARB and (a) the signing and sealing architect has reviewed

the other architect's work and has integrated the work into his or her own technical submissions and (b) the other architect's technical submissions are prototypical building documents. A registered architect may also sign and seal drawings, specifications, or other work which is not required by law to be prepared by an architect if the architect has reviewed such work and integrated it into his or her own technical submissions. Any registered architect signing or sealing technical submissions not prepared by that architect but prepared under that architect's responsible control by persons not regularly employed in the office where the architect is resident, shall maintain and make available to the Board upon request for at least five years following such signing and sealing, adequate and complete records demonstrating the nature and extent of the registered architect's control over and detailed knowledge of such technical submissions throughout their preparation. Any registered architect signing or sealing technical submissions integrating the work of another architect into the registered architect's own work as permitted under clauses (iii) or (iv) above shall maintain and make available to the Board upon request for at least five years following such signing and sealing, adequate and complete records demonstrating the nature and extent of the registered architect's review of and integration of the work of such other architect's work into his or her own technical submissions, and that such review and integration met the required professional standard of care.~~A registered architect shall not sign or seal drawings, specification, reports or other professional work which was not prepared under his or her responsible control. Provided, however, that in the case where portions of the work are prepared under the responsible control of persons consulting with or employed by the architect and who are registered under this or any other professional registration law of this State, the architect may sign or seal those portions of the professional work if the architect has reviewed them and has coordinated their preparation.~~

9.5.3. A registered architect shall neither offer nor make any gifts, other than gifts of nominal value (including, for example, reasonable entertainment and hospitality), with the intent of influencing the judgment of an existing or prospective client in connection with a project in which the registered architect is interested.

9.5.4. A registered architect shall not engage in conduct

involving fraud or wanton disregard of the rights of others.

9.5.5. An architect shall not make misleading, deceptive or false statements or claims.

9.6. Design and Use of Architect's Seal.

9.6.1. Pursuant to W. Va. Code §30-12-7 and subject to subsection 8.5 and subdivision 9.5.2 of this rule, each registered architect shall procure a seal, as shown in figure A.

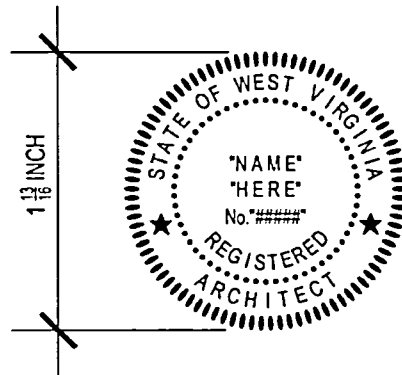


Figure A (not to scale)

9.6.2. The registered architect shall imprint as required by W. Va. Code §30-12-7, the architect's seal on all technical submissions.

~~9.6.2.1 Technical Submissions include documents that are:~~
~~(a) required by public authorities for building permits or regulatory approvals, or (b) are intended for construction purposes.~~

9.6.2.2 Affixing of Seal

9.6.2.2.1.a The seal shall be affixed on the index sheet of each set of drawings; when no index sheet is included then the seal shall be affixed on each sheet individually except as indicated in subdivision 9.5.2 of this rule;

When multiple registrants or consultants contributed to the preparation of the technical submission, each registrant shall seal that part of the work under his or her responsible control either on the index sheet or on each sheet individually.

9.6.2.21.b The seal shall be affixed on the index sheet of each set of specifications. When multiple registrants or consultants contributed to the preparation of the specifications, each registrant shall seal that part of the index indicating work under their responsible control.

9.6.2.21.c The seal shall be affixed on the cover or index sheet of all other technical submissions

9.6.2.3-2 Rubber stamp, embossed, transparent self adhesive, or electronically reproduced seals may be used. The stamps or seals shall not include the registrant's signature or date of signature.

9.6.2.4-3 The registrant shall superimpose his or her signature and date across the face and beyond the circumference of the seal on all required documents. The documents bearing this signature may be reproduced for distribution.

9.6.3. The seal, appearing on any technical submission is prima facie evidence that the technical submission was prepared by or under the direct supervision of the individual named on seal.

9.7. Amendments to Rules. -- Proposed amendments to the ~~rules of professional conduct~~ Rules of Professional Conduct must be adopted by unanimous vote of the Board members at any meeting at which there is a quorum present. The Board shall ~~mail~~ issue a notice of each proposed amendment ~~or deliver~~ to each member at least ten (10) days prior to the date of the meeting at which they are to be considered. Proposed amendments are subject to the rule making process as set forth in W. Va. Code §29A-3-1, et seq.

§2-1-10. Causes for Denial, Suspension or Revocation of Registration, or other Disciplinary Action.

10.1. The Board may deny an application for registration; suspend a registration for a specific period of time; place a registered architect on probation; limit or restrict a registration; revoke, suspend or annul a registration issued by the Board; or impose a civil penalty on an architect in an amount not more than two thousand dollars for each violation, upon satisfactory proof that an applicant or architect has been convicted of a felony or is, in his or her professional capacity, engaged in conduct, practices or acts constituting professional negligence or a willful departure from accepted standards of professional conduct, or has violated the provisions of W. Va. Code §30-1-8, W. Va. Code §30-12-1 et seq., or the Rules of the Board.