

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #3

Do Not Mark In This Box

2008 AUG 28 AM 10: 34

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: West Virginia State Board of Architects TITLE NUMBER: 2

CITE AUTHORITY: WV Code 30-12-1, 30-12-3 and 30-1-7a

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: Registration of Architects

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.


Authorized Signature

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: _____

Rule Title: Registration of Architects

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: 8/29/08

Signature of Agency Head or Authorized Representative

Leya C Lewis

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

Revisions and corrections to the Rules for Registrations of Architects were made to strengthen the requirements for Professional Development Units, assign specific time periods for renewal and reinstatement, and to bring our rules into compliance with current standards for the registration and practice of architecture as adapted by the National Council of Architectural Registration Boards (NCARB).

Other amendments relate to the Board's transition to electronic or on-line procedures for registration or renewal of architectural licenses.

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: August 29, 2008

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) WV State Board of Architects 916 5th Avenue, Suite 410
P.O. Box 9125, Huntington, WV 25704-0125

LEGISLATIVE RULE TITLE: ~~Registration of Architects~~

1. Authorizing statute(s) citation WV Code 30-12-1, 30-12-3 and 30-1-7a

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
July 29, 2008

b. What other notice, including advertising, did you give of the hearing?
Notice was given on the Home Site of the State of West Virginia and on the Web Site of the West Virginia State Board of Architects

c. Date of Public Hearing(s) *or* Public Comment Period ended:
August 28, 2008

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received X

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

N/A

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Lexa C. Lewis, Executive Director of the WV State Board of Architects

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

Phone: 304-528-5825

E-mail Address: lewilex@mail.wvnet.edu

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)
-
-
-
-

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached N/A

FILED

2008 AUG 28 AM 10: 34

TITLE 2
LEGISLATIVE RULE
BOARD OF ARCHITECTS

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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. -- April 10, 2007.

1.4. Effective Date. -- April 13, 2007.

§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. "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.

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

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

2.2.6. Examination -- The current Architect Registration Examination (A.R.E.), as accepted by the Board.

2.2.7. "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:

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

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

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

2.2.8 Fiscal Year -- a twelve month period beginning on July first and ending on June thirtieth.

2.2.89. IDP -- Intern Development Program.

2.2.910. IDP Applicant -- An individual who has completed the IDP training requirements set forth in subsection 5.2 of this rule and who has submitted an application to NCARB.

2.2.1011. 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.

2.2.1112. Intern -- An individual in the process of satisfying this registration bBoard'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.

2.2.1213. NAAB -- The National Architectural Accrediting Board.

2.2.1314. NCARB -- The National Council of Architectural Registration Boards.

2.2.1415. 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.

2.2.1516. 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 and Related Practice Subjects.

2.2.1617. 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.

2.2.1718. 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.

~~2.2.18. Related Practice Subjects -- Technical and professional subjects other than Public protection Subjects, which the Board considers appropriate to indirectly safeguard the public's health,~~

safety and welfare. The subjects include building cost analysis, construction contract negotiation, construction phase of office procedures, project management, review of state registration laws including rules of professional conduct, and other similar subjects.

2.2.19. 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.

2.2.20 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.

2.2.1921. Structured Educational Activities -- Educational activities in which the teaching methodology consists primarily of the systematic presentation of Public Protection Subjects or ~~Related Practice 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.

2.2.2022. "Willful departure from accepted standards of professional conduct" means:

2.2.2022.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;

2.2.2022.b. Willful failure to substantially perform in accordance with the terms of a contract or subcontract;

2.2.2022.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;

2.2.2022.d. Specification of substandard materials, or design defects amounting to intentionally deficient or grossly negligent performance; or

2.2.2022.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 two (2) regular meetings annually as set by the Board. 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 regular meetings shall be held at a time and place designated by the Board.

3.2. Election of officers. -- ~~During the annual July meeting~~ 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 the that fiscal year or until their successors have been duly elected. ~~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.~~

3.3. 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, ~~Hand Seals and Renewal Cards.~~ -- The Board shall issue certificates of registration and ~~hand seals~~ 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. ~~The Board shall issue annual renewal cards, signed by the president and secretary, upon receipt of the annual renewal fee.~~

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 certificate of registration, and last known mailing address.

~~3.11.2. All documents relating to an application for registration as an architect shall not be treated as a public record.~~

3.11.32. 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:

3.11.32.a. The A.R.E. and all documents relating to the grading of the examination; or

3.11.32.b. Letters of recommendation; or

3.11.32.c. Social Security numbers; and

3.11.2.d All documents relating to an application for registration as an architect

3.12. Communication. -- Prohibition of improper contacts. -- While an application for registration or an enforcement proceeding is pending before the Board, an applicant or licensee may not 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. NCARB.~~

~~3.13.1. The Board may maintain membership in the NCARB and pay the necessary costs of membership.~~

~~3.13.2. The Board may keep up to date information on the recommended policies adopted from time to time by the NCARB.~~

~~3.13.3. The Board may cooperate with the NCARB in establishing uniform standards of architectural registration throughout the United States.~~

3.1413. Availability of Forms. -- Any forms prepared in accordance with this rule are available electronically on the Board's web site at www.wvbrdarch.org or upon request to the Board. ~~If any forms are amended by the Board, a copy of each amended form shall be mailed by the Board staff to all individuals whose applications are pending and are affected by the amendment.~~

§2-1-4. Applications for Registration.

4.1. Submission of Applications. -- An applicant for a certificate of registration shall submit an application 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 registration, an applicant shall:

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;

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

5.1.1.d. Have passed the A. R. E.

5.1.2. ~~An applicant~~ The Board may substitute consider other experience as a substitution for the

registration requirements outlined in this section ~~only~~ if the Board considers the qualifications to be equivalent ~~and approves the substitution.~~

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

~~5.1.4. In evaluating an applicant's records, the board may, p~~Prior to granting a certificate of registration, the Board may 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 applicant who holds a current and valid certification issued by the NCARB, and submits satisfactory evidence of that certification to the Board 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 containing information acceptable to the ~~b~~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 determination of NCARB as the result of the examination, and

shall report the result to the applicant.

§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 ~~certificate~~ of registration issued by the Board is valid for one (1) fiscal year. Active registration may be verified electronically on the Board's web site at www.wvbrdarch.org.

8.3. Renewal. -- ~~(A)~~ 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.

8.3.1. Continuing Professional Development Requirements. -- To renew or reinstate registration, in addition to all other requirements, a registered architect shall acquire twelve (12) Professional Development Units for each twelve (12)-month period fiscal 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 requirements, as provided in this subsection. All twelve Professional Development Units shall be obtained in Public Protection Subjects acquired in Structured Educational Activities. 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.

8.3.2. Professional Development Units. -- ~~Of the 12 Professional Development Units required under subdivision 8.3.1 of the subsection at least eight Professional Development units shall be in Public Protection Subjects acquired in Structured Educational activities. All 12 Professional Development Units may be acquired in these Subjects and Activities. Four Professional Development Units may be in Related Practice Subjects acquired either in Structured Educational Activities. Individually Planned Educational Activities or in Public Protection Subjects acquired in individually Planned Educational Activities. A registered architect may not carry over Professional Development Units acquired for any 12-month period fiscal year to a subsequent 12-month period fiscal year. The registered architect may acquire the Professional Development Units within any jurisdiction.~~

8.3.3. Reporting and Record keeping. -- A 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. 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, or if the Board disallows any Professional Development Units claimed in good faith, the architect has six months from notice of the disallowance non-compliance to cure the disallowance by providing provide further evidence of completion satisfactory to the Board. of Professional Development Units equal to the deficiency or disallowance. If the architect cures remedies the disallowance non-compliance by acquiring and reporting new Professional Development Units, those Units may not also be used to satisfy the requirement for the next reporting period.

8.3.4. Exemptions. An architect is not subject to the requirements of subdivision 8.3.2 and 8.3.3 of this subsection if

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

8.3.4.b. The architect otherwise meets all renewal requirements and is called to active duty in the armed forces of the United States 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

8.3.4.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 ~~this state's~~ West Virginia's continuing professional development requirements as meeting its own.

8.4. Not Transferable. -- A certificate of registration is not transferable.

8.5. 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 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 §§30-12-9 and 30-1-8.

8.6. Reissuance Renewal. -- The terms of reissuance renewal of a certificate of registration shall be in accordance with the Board's rule, Fees, W. Va. Code §30-12-5, and the applicable portions of W. Va. Code §30-12-9.

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

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

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

8.7.1 The maximum period of inactive status for which a certificate may be reinstated is five years after the renewal date, after which time the inactive registrant may seek a new registration in accordance with §2.1.4, §2.1.5, §2.1.6, §2.1.7 and §2.1.8 of this rule.

8.7.8. 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.

8.8.9. 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" 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. ~~An emeritus architect may use the title "architect" but may not practice architecture as defined in W. Va. Code §30-12-2 (5)~~

8.89.1 Emeritus status registrants may be ~~readmitted~~ reinstated to the active practice upon proper application and completion of twelve (12) professional development units in accordance with subdivisions 8.3.1 and 8.3.2 of this rule within the 12 months prior to application for ~~readmission~~ reinstatement.

8.89.2 Fees required -- An emeritus licensee seeking ~~readmission~~ reinstatement to active practice shall pay all applicable fees, not to exceed the current license fees.

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

9.1. Competence.

9.1.1. In engaging in the practice of architecture, 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 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 not include the practice of engineering, 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 judgement, 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 judgement 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.

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.

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 judgement, 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 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. 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 a material fact requested in connection with his or her renewal.

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 judgement in connection with a prospective or existing project in which the registered architect is interested.

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.

9.5. Professional Conduct.

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

9.5.2. A registered architect shall not sign or seal drawings, specification, reports or other professional work which was not prepared under his or her ~~direct supervision~~ responsible control: Provided, however, that in the case where portions of the work are prepared under the ~~direct supervision~~ 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 judgement 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.

9.6. 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 ~~prescribed by the Board~~ shown in figure A

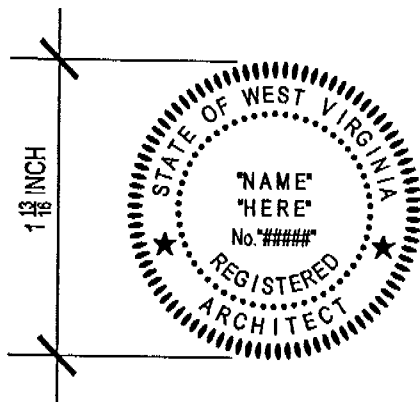


Figure A (not to scale)

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.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.

9.6.2.2.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.

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

9.6.2.3 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 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 must be adopted by unanimous vote of the Board members at any meeting at which there is a quorum present. The Board shall mail 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; 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.