

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

Form #2

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2006 JUN 26 P 3:52

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

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

RULE TYPE: Legislative 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: 2

TITLE OF RULE BEING AMENDED: Registration of Architects

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

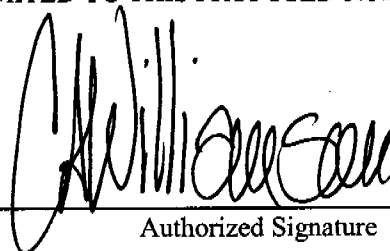
IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 26, 2006 AT 9:00 A.M. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

WV State Board of Architects

P.O. Box 9125

Huntington, WV 25704-0125

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.


Authorized Signature

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 economic impact on the 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

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 a 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: 6/26/2006

Signature of Agency Head or Authorized Representative

Debra C. Lewis

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

SERIES 1
REGISTRATION OF ARCHITECTS

The Board revised the rules for registration for correction and to update to the current standards of the practice and laws for registering architects in the state of WV.

TITLE 2
LEGISLATIVE RULE
BOARD OF ARCHITECTS

SERIES 1
REGISTRATION OF ARCHITECT

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

§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 6, 2004.

1.4. Effective Date. -- April 14, 2004.

§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. EESA -- Education Evaluation Services for Architects, a program administered by Educational Credential Evaluators, Inc., a private organization not affiliated with NCARB or any of its member boards.~~

2.2.5. Emeritus Architect -- A registrant who has retired from the active practice of architecture who is 65 years of age or older. Additionally, at the discretion of the Board, a registrant who has become incapacitated may be granted 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)

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. IDP -- Intern Development Program.

2.2.9. 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 ~~for registration to the Board to~~ NCARB.

2.2.10. 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.

2.2.11. 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.

~~2.2.11.~~ 2.2.12. NAAB -- The National Architectural Accrediting Board.

~~2.2.12.~~ 2.2.13. NCARB -- The National Council of Architectural Registration Boards.

~~2.2.13.~~ 2.2.14. 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.

~~2.2.14.~~ 2.2.15. 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. ~~If the vendor of the Structured Educational Activities prescribes a customary time for completion of an Activity, then the prescribed time shall, unless the Board finds the time to be unreasonable, be accepted as the architect's time for Professional Development Unit purposes irrespective of the actual time spent on the Activity.~~

~~2.2.15.~~ 2.2.16. 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.

~~2.2.16.~~ 2.2.17. 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, 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.

~~2.2.17.~~ 2.2.18. Related Practice Subjects -- Technical and professional subjects other than Public protection Subjects, which the Board considers appropriate to ~~safeguard, directly or indirectly,~~ 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.

~~2.2.18.~~ 2.2.19. 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.

~~2.2.19. VU -- Value unit, used to calculate the hours of training earned by IDP applicants.~~

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

2.2.20.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;

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

2.2.20.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;

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

2.2.20.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 ~~four (4)~~ 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, the Board shall elect from its members a president and a secretary, to take office at the beginning of the fiscal year, and to hold office until the end

of the year or until their successors have been duly elected. ~~The secretary shall furnish a~~ A bond shall be furnished for the secretary as required by law, the law. The fee for the bond ~~being~~ shall be paid 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 shall be ~~in the custody of the secretary.~~ maintained 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 with the assistance of such clerical help as may be required, conduct and care for all correspondence of the Board, keep the minutes of all meetings, keep all books, records and files and sign all certificates of registration and renewal cards. The secretary shall provide notices of the time and place of all meetings to each Board member. The secretary shall prepare the reports for submission to the Governor and to the Secretary of State as required by law. The secretary shall receive all moneys from fees and shall regularly transmit those fees for deposit with the State Treasurer to the credit of the Board. conduct all duties as prescribed by law. These duties may be performed with the assistance of employed personnel as required.~~

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. ~~The Board may mail annual renewal notices to each registered architect at least three (3) weeks before the thirtieth day of June.~~

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.

3.11.3. 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:

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

3.11.3.b. Letters of recommendation.

3.11.3.c. Social Security numbers

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~~; matter, ~~but inquiries may~~ 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.

3.14. Availability of Forms. -- Any forms prepared in accordance with this rule are available 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 Circular of Information No. 1; most current education standard;

5.1.1.c. ~~Have at least three (3) years of training credits in accordance with NCARB Circular of Information No. 1. All~~ Meet all training requirements shall be under the IDP system as stipulated by NCARB's Circular of Information No. 1 NCARB; and

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

~~5.1.2. The Board may grant a certificate of registration to an applicant meeting all the requirements of subsection 5.1.1 of this section other than paragraph 5.1.1.b. if the applicant holds a high school diploma or equivalent and has accumulated at least five (5) education credits as of June 30, 1984. NCARB's Circular of Information No. 1 explains education credits and current NCARB IDP guidelines.~~

~~5.1.3. 5.1.2.~~ An applicant may substitute other experience for the registration requirements outlined in this section only if the Board considers the qualifications to be equivalent and approves the substitution.

~~5.1.4. 5.1.3.~~ In evaluating an applicant's records, the Board shall apply the education and training standards as set forth in the NCARB Circular Information No. 1: ~~Provided, that an applicant who qualified under the standards shall be evaluated by those same standards.~~ by NCARB.

~~5.1.5. 5.1.4.~~ In evaluating an applicant's records, the board may, prior to granting a certificate of registration, 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.

~~5.2. Training Standard.~~

~~5.2.1. To satisfy the training standard, an applicant shall have at least three years of training credits, or have satisfied the IDP training requirements in accordance with the NCARB's Circular of Information No. 1.~~

~~5.3. Notification. When an applicant has submitted to the Board evidence that he or she has satisfied all the registration standards set forth in subsections 5.1 and 5.2 of this rule, the Board shall review the application and notify the applicant of its determination in writing. The Board shall send notice to the applicant within thirty (30) days of its final action.~~

§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 board.

~~6.2. Registration of Non-NCARB Certificate Holders -- The Board may award reciprocal registration to an applicant who meets the requirements of subsections 6.1.1 and 6.1.2 of this rule who has five years of practical experience as a registered architect in another state or jurisdiction recognized by NCARB but who does not hold an NCARB certificate, without the necessity of additional training or reexamination under subsections 5.1 and 5.2 of this rule.~~

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

6.2.1 the applicant shall have passed the A.R.E.

6.2.2 the applicant shall have 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. The Board shall determine the applicant's eligibility and forward the information to NCARB.~~

~~7.3.2.~~ 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.

~~7.3.3.~~ 7.3.2. The Board shall accept the determination of NCARB as the the result of the examination, and shall report the result to the applicant.

~~7.3.4. If there is alleged misbehavior on the part of an applicant sitting for an examination, the Board may investigate at the request of NCARB and take or recommend appropriate action.~~

~~7.4. Refund of Fee. The Board in its discretion may return the filing fee paid by any applicant whose application to take the Examination has been rejected. The Board may not refund the examination fee to any applicant who takes any of the Examination or who voluntarily withdraws after his or her Examination has been approved.~~

~~7.5. Transfer of Scores Form Other Boards. The Board, in its discretion and upon proper application, may accept passing scores achieved on Divisions of the A.R.E. administered and attested to by another NCARB member board.~~

~~7.6. Transfer of Scores to Other Boards. — The Board, in its discretion and upon proper application, may forward the grades achieved by an applicant in the various divisions of the examination given under the Board's jurisdiction to any other duly constituted architectural registration board and to the NCARB for use in evaluating the applicant's eligibility for NCARB certification. The applicant shall state his or her reason for requesting the transfer. The transfer terminates the applicant's application pending before the Board.~~

§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) year.

8.3. Renewal. -- (A) A registered architect may renew his or her registration in accordance with W. Va. Code §30-12-5.

8.3.1. Continuing Professional Development Requirements. -- To renew or reinstate registration, in addition to all other requirements, a registered architect shall acquire 12 Professional Development Units for each twelve (12) month period since his or her last renewal or initial registration, as the case may be, or be exempt from these continuing professional development requirements, as provided in this subsection. 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 to a subsequent 12-month period. 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 Board disallows any Professional Development Units claimed in good faith, the architect has six months from notice of the disallowance to cure the disallowance by providing further evidence of completion satisfactory to the Board. If the architect cures the disallowance 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 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:

8.3.4.b. The architect otherwise meets all renewal requirements and is a ~~civilian~~ 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 continuing professional development requirements as meeting its own.

~~8.3.5. The Board shall provide forms to be used for reporting compliance with continuing education requirements.~~

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. -- The terms of reissuance 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 for renewal of registration not later than the first day of June of each year.

8.7. 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. Emeritus Status -- Registrants who are retired from the active practice of architecture 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.

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

8.8.2 Fees required -- An emeritus licensee seeking readmission 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.

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 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: Provided, however, that in the case where portions of the work are prepared under the direct supervision 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.

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, ~~as follows: On the index sheet of each set of drawings; when no index sheet is included then on each sheet individually except as indicated in subdivision 9.5.2. of this rule; and on the cover identifying each set of specifications. The original signature of the individual named on the seal shall appear across the face of each original seal imprint.~~ 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 subsection 9.5.2 of the rules; When multiple registrants or consultants contributed to the preparation of the technical submission, each registrant shall seal that part of the work under their 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. Such 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 and 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.