



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Architects

TITLE-SERIES: 2-01

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: Registration of Architects

CITE STATUTORY AUTHORITY: W.Va. Code 30-12-1, 30-1-4, 30-1-24

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 09/22/2019 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: WV Board of Architects

ADDRESS: 405 Capitol Street, Mezzanine Suite 3

Charleston, WV 25301

EMAIL: emily.b.papadopoulos@wv.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

This rule establishes the method of registration for architects in West Virginia, along with the continuing education requirements and the rules of professional conduct.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

The changes proposed in 2CSR1 are primarily updates so West Virginia's rules for registering architects are updated to reflect changes in the national Architect Registration Exam (ARE) and the national Architect Experience Program (AXP), as administered by the National Council of Architectural Registration Boards (NCARB), of which the West Virginia Board of Architects is a member. Further changes seek to clarify rules that have been confusing to applicants. The Board seeks to limit the time allowed for a late renewal of registration from 12 months to six to curb illegal practice and to stress the importance of timely continuing education, upon which renewal is conditional. An additional change was made to be compliant with W.Va. Code 30-1-24, passed in the 2019 Extraordinary Session, to allow applicants convicted of a crime unrelated to the profession of architecture to obtain a professional license.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

Anticipated increase of Revenue to State Government from decreasing the late renewal period from 12 to six months: \$5,000 (20 architects paying for reinstatement rather than late renewal).
The impact of W.Va. 30-1-24 is unknown.

B. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

The reduction of the number of months an architect can be inactive and still execute a late renewal will be a positive impact of the health, safety, and welfare of West Virginians with fewer architect practicing with an inactive registration with no accountability for continuing education. Making the Board's rules parallel with NCARB allows West Virginia to remain competitive to attract and ease the process for out of state architects to seek a reciprocal registration while also easing the pathway to licensure for native West Virginians. Changes adopted by NCARB have shortened the time to achieve licensure and economic independence for individual architects.
The impact of W.Va. 30-1-24 is unknown.

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2019 Increase/Decrease (use "-")	2020 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues			\$5,000.00

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

Anticipated increase of Revenue to State Government resulting from decreasing the late renewal period from 12 to six months: \$5,000 (20 architects paying for reinstatement rather than late renewal).

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Emily B Papadopoulos -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 2
LEGISLATIVE RULE
BOARD OF ARCHITECTS

SERIES 1
REGISTRATION OF ARCHITECTS

§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 23, 2017~~

1.4. Effective Date. -- ~~July 1, 2017~~

1.5. Sunset Date. -- This rule shall terminate and have no further force and effect upon the expiration of five years from its effective date on June 30, 2027.

§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. ARE® -- The current Architect Registration Examination® prepared by NCARB.

2.2.3 AXP - - Architectural Experience Program, formerly named Intern Development Program (IDP), as developed and administered by NCARB to earn and record professional experience in six broad experience areas.

2.2.4 ~~2.2.3~~ Calendar Year -- a twelve-month period beginning on January first and ending on December thirty first.

2.2.5 ~~2.2.4~~ "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.

2.2.6 ~~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.

2.2.7 ~~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.

2.2.8 ~~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.

2.2.9 ~~2.2.8~~ Division -- A unit of the ARE® that tests the applicant's knowledge of a certain subject area.

2.2.10 ~~2.2.9~~ Education Requirements -- The education requirements including equivalences established for certification from time to time by NCARB, as accepted by the Board.

2.2.11 ~~2.2.10~~ Emeritus Architect -- A registrant who has retired from the active practice of architecture and meets the criteria established in this rule.

2.2.12 ~~2.2.11~~ Examination -- The Architect Registration Examination® (ARE®), prepared by and administered through NCARB, as accepted by the Board.

2.2.13 ~~2.2.12~~ "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:

2.2.13 ~~2.2.12.a.~~ False swearing or perjury in a court proceeding related to the applicant's practice of architecture;

2.2.13 ~~2.2.12.b.~~ Felonies involving theft, bribery, embezzlement, forgery, falsification or destruction of records, fraud or misrepresentation; and

2.2.13 ~~2.2.12.c.~~ Any other felony offense demonstrating a lack of business integrity or business honesty.

2.2.14 ~~2.2.13~~ Fiscal Year -- a twelve-month period beginning on July first and ending on June thirtieth.

2.2.15 ~~2.2.14~~ 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 & EVALUATION: construction contract administration and post-occupancy evaluation of projects: presconstruction activities, construction observation, administrative procedures and protocols, and project closeout and evaluation.

~~CONSTRUCTION CONTRACT ADMINISTRATION: Contracts, Bidding, Contract Negotiations~~
PRACTICE MANAGEMENT: management of architectural practice and the details of running a business: business operations, finance, risk and development of practice, practice-wide delivery of services, and practice methodologies.

~~CONSTRUCTION DOCUMENTS: Drawings, Specifications, Delivery Methods~~
PROGRAMMING & ANALYSIS: evaluation of project requirements, constraints, and opportunities: environmental and contextual conditions, codes and regulations, site analysis and programming, and building analysis and programming.

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

PROJECT DEVELOPMENT & DOCUMENTATION: integration and documentation of building systems, material selection, and material assemblies into a project: integration of building materials and systems, construction documentation, project manual and specifications, codes and regulation, and construction cost estimates.

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

PROJECT MANAGEMENT: management of architectural projects through execution: resource management, project work planning, contracts, project execution, and project quality control.

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

PROJECT PLANNING & DESIGN: preliminary design of sites and buildings: environmental conditions and context, codes and regulation, building systems, materials, and assemblies, project integration of program and systems, and project costs and budgeting.

~~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~~

~~2.2.15 IDP — Intern Development Program as developed and administered by NCARB~~

~~2.2.16 IDP Applicant — An individual who has completed the IDP training requirements and who has submitted an application to NCARB~~

~~2.2.16~~ 2.2.17 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~~ 2.2.18 Multi-family Residential Structure -- Residential structures including apartments, and condominiums having three or more residential units.

~~2.2.18.~~ 2.2.19 NAAB -- The National Architectural Accrediting Board.

2.2.19 ~~2.2.20~~ NCARB -- The National Council of Architectural Registration Boards.

2.2.20 ~~2.20.21~~ 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.

2.2.21 ~~2.2.22~~ 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 ~~2.2.23~~ Prototypical Building -- Any commercial structure or space within a commercial structure 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 ~~2.2.24~~ 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.

2.2.24 ~~2.2.25~~ Reinstatement -- The process of restoring an architectural registration after either an intervening period of inactive status of between ~~twelve~~ six months and five years or a period of emeritus status of any length.

2.2.25 ~~2.2.26~~ 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~~ six months.

2.2.26 ~~2.2.27~~ 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 because the reviewer has neither control over nor detailed professional knowledge of the content of such submission throughout their preparation.

2.2.27 ~~2.2.28~~ Structured Educational Activities -- Continuing Educational activities in which the teaching methodology consists primarily of the systematic presentation of Health, Safety, and Welfare Subjects by qualified individuals or organizations, including monographs, courses of study taught in person or by distance learning, correspondence, organized lectures, presentations or workshops and other means through which identifiable technical and professional subjects are presented in a planned manner.

2.2.28 ~~2.2.29~~ "Willful departure from accepted standards of professional conduct" means:

2.2.28 ~~2.2.29~~.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;

2.2.28 ~~2.2.29~~.b. Willful failure to substantially perform in accordance with the terms of a contract or subcontract;

2.2.28 ~~2.2.29~~.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;

2.2.28 ~~2.2.29~~.d. Specification of substandard materials, or design defects amounting to intentionally deficient or grossly negligent performance; or

2.2.28 ~~2.2.29~~.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.

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.

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 a roster of registered architects, which is open to public inspection, and which shall show each registered architect's name, certificate of registration, and last 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 ARE® and all documents relating to the grading, content, administration, or security thereof;

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. Prohibition of Improper 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 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 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, other than pursuant to §2-1-6 of this rule, an applicant shall meet the following requirements:

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

5.1.2. ~~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 education standards applicable upon passage of this rule;

5.1.3. ~~1.c.~~ Meet all training requirements under the AXP (formerly IDP) ~~IDP~~ system as stipulated by NCARB; and

5.1.4. ~~1.d.~~ Have passed the ARE® in accordance with the NCARB pass/fail standards current at the time the applicant took the Examination.

5.1.2. The Board may consider other experience as a substitution for the registration requirements set forth in this section if the Board considers the experience to be equivalent to or better than the registration requirements. Experience gained in the Armed Services shall be of a character equivalent to that which would have been gained in the civilian sector performing similar work. A good indicator of equivalence is that the applicant while in the Armed Services served in an architectural or engineering capacity. 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, 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. -- 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 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 satisfactory to the Board concerning the applicant, 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 ARE®; and

6.2.2. Who has completed five years of practical experience after registration as an architect in any states or jurisdictions recognized by NCARB. ~~This is a~~ Practical experience after registration shall be obtained through employment either (1) as a practicing registered architect in responsible charge of his or her work 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 ARE®, 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 shall investigate the allegation, and if determined to be true, the Board shall take appropriate disciplinary action pursuant to 2CSR2 Disciplinary and Complaint Procedures for Architects. Misbehavior may include, without limitation, violation of NCARB's guidelines or policies, or an applicant's confidentiality agreements with respect to the examination.

7.3.4. The Board, in its discretion, may forward to any other United States or Canadian architectural registration board or NCARB, or may receive from any other such board of NCARB the grades achieved by an applicant in the various divisions of the ARE for the respective purposes of evaluating such applicant's eligibility for registration or permitting NCARB to evaluate such applicant's eligibility for NCARB certification. Any applicant making such a request shall state his/her reason for requesting transfer. Such transfer to another jurisdiction shall terminate the applicant's initial application pending before the Board of such other transmitting jurisdiction as the case may be.

§2-1-8. Registration.

8.1. Issuance -- When the Board has determined that an applicant for 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 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.

8.4.1. Continuing Education Requirements. -- A registered architect shall acquire twelve (12) Continuing Education Hours for each calendar year since his or her last renewal or initial registration, as the case may be, or be exempt from these continuing education requirements, as provided in this subsection. All twelve Continuing Education Hours shall be obtained in 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.

8.4.2. A registered architect may not carry over Continuing Education Hours acquired for any calendar year to a subsequent calendar year. The registered architect may acquire the Continuing Education Hours within any jurisdiction.

8.4.3. Audit Reporting and Record 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 shall complete and submit on forms prescribed or accepted by the Board certifying that he or she has acquired the required Continuing Education Hours. The information provided on these forms shall be audited by the Board for verification of compliance with the requirements. If the registered architect is deficient in meeting the required Continuing Education Hours, or if the Board disallows any Continuing Education Hours claimed in good faith, the architect has sixty calendar days from notice of the non-compliance to provide evidence of completion of Continuing Education Hours equal to the deficiency or disallowance. If the architect remedies the non-compliance by acquiring and reporting new Continuing Education Hours, those hours may not also be used to satisfy the requirement for the next reporting period. If the Board finds, after proper notice and hearing, that the architect willfully disregarded these requirements or falsified documentation of required Continuing Education Hours, the architect may be subject to disciplinary action.

8.4.4. -- The Board shall follow W.Va. Code §30-1**~~b~~1** et seq. and other laws regarding continuing education for licensees on active duty U.S. Military and their spouses to the extent applicable and appropriate.

8.4.5. Exemptions. An architect is not subject to the requirements of subdivision 8.4.1, 8.4.2 and

8.4.3 of this subsection if:

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

8.4.5.b. -- The architect otherwise meets all renewal requirements and is called to active 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

8.4.5.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.

8.5. Not Transferable. -- A registration is not transferable.

8.6. 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.

8.7. Renewal. -- The terms of renewal of a 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.

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

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

8.8. Reinstatement. -- The terms of reinstatement of a 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. ~~8-8-1.~~ The maximum period of inactive status for which a 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.

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

8.10. 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.

8.10.1. Emeritus status registrants may be reinstated to the active practice upon proper application and completion of twelve (12) Continuing Education Hours in accordance with subdivisions 8.4.1 and 8.4.2 of this rule within the 12 months prior to application for reinstatement.

8.10.2. Fees required -- An Emeritus licensee seeking reinstatement to active practice shall pay 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 registered architects 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. If any representation is made by a registered architect to a prospective or existing client or employer with respect to his or her qualifications and the scope of his or her responsibility in connection with work for which he or she is claiming credit, such representations must be accurate. If any representation is made by a registered architect employing and/or directing other registered or non-registered individuals when representing their firm to a prospective client, any such representations concerning the title, position, qualification, and experiences of these individuals shall be accurate. This includes accurately representing the scope of these individuals' responsibilities in connection with work on projects by these individuals while employed at previous and current employers.

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 and 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 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 he or she was disciplined in another jurisdiction in the United States where the grounds for discipline are substantially similar to those in West Virginia.

9.5. Professional Practices.

9.5.1. Each office in West Virginia maintained for the preparation of architectural drawings, specifications, reports or other 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.

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.

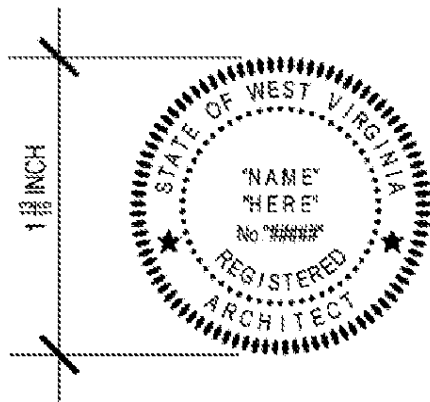


Figure A (not to scale)

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. Affixing of Seal

9.6.2.1.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.

9.6.2.1.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.

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

9.6.2.2. Rubber stamp, embossed, transparent self-adhesive, or electronically reproduced seals, signature, and date may be used.

9.6.2.3. 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 must be adopted by unanimous vote of the Board members at any meeting at which there is a quorum present. The Board shall issue a notice of each proposed amendment 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; revoke 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. Notwithstanding the above, applications for initial registration for licensure involving an applicant with a prior criminal conviction shall be evaluated by the Board in accordance with the applicable provisions of W.Va. Code §30-1-24.