

DEPARTMENT OF ADMINISTRATIVE SERVICES
DIVISION OF PROFESSIONAL REGULATION
200 Board of Landscape Architecture
Statutory Authority: 24 Delaware Code, Section 205 (24 Del.C. §205)
24 DE Admin Code 200

FINAL

ORDER

After due notice in the *Register of Regulations* and two Delaware newspapers, a Public hearing was held on March 9, 2005 at a scheduled meeting of the Delaware Board of Landscape Architects to receive comments regarding proposed Regulations 3.0 and 7.1.2.

BACKGROUND

The enabling legislation for the practice of landscape architecture is found in 24 Del.C. Chapter 2. The purpose of the change to Regulation 3.0 is to conform the regulation to changes in law brought about by the passage of HB 211 by the Delaware General Assembly. HB 211 clarified that entities under Delaware law or the laws of any other state may practice landscape architecture in Delaware as long a Delaware licensed landscape architect has been designated as being responsible for services performed by such entity. The entity must also receive a certificate of authorization from the Board. The proposed regulation changes the application process to account for these changes in the law.

The purpose of the change to Regulation 7.1.2 is to specify the approval process for continuing education programs. Continuing education programs other than those sponsored by organizations in Regulation 7.1.2 will be reviewed at the time of renewal. Self directed activities must be pre-approved and the licensee must submit 60 days prior to the activity on forms provided in Regulations 7.3 and 7.4. The Board believes and finds that the State of Delaware has a compelling public policy interest in providing application and renewal procedures that conform to changes in law concerning the ability of entities to practice landscape architecture in Delaware. The Board further finds that the specification of continuing education is in the public interest by ensuring that licensed landscape architects have specified levels of educational and professional competence by timely completing approved continuing education courses. Therefore, the Board finds that the changes to Regulations 3.0 and 7.1.2, as contained in Exhibits A and B respectively, enhance the ability of licensees to practice landscape architecture in Delaware.

SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

No written comments were received. No public comment was received at the March 9, 2005 hearing.

FINDINGS OF FACT WITH RESPECT TO THE EVIDENCE AND INFORMATION SUBMITTED

The Board carefully reviewed and considered the proposed changes to Regulations 3.0 and 7.1.2. The overarching concerns of the Board of Landscape Architecture were the public health, safety and welfare of citizens and the ability to maintain the public trust in the practice of landscape architecture. The Board finds that the changes to Regulation 3.0 are necessary to conform with changes in law resulting from HB 211, in accord with 29 Del.C. Sec. 10113(4). The Board further finds that the continuing education approval process specified in regulation 7.1.2 is necessary to ensure that licensees properly comply with the procedures for granting continuing education.

DECISION AND EFFECTIVE DATE

The Board hereby adopts the changes to Regulations 3.0 and 7.1.2 attached as Exhibits A and B respectively to be effective 10 days following publication of this order in the *Register of Regulations*. The text of the revised rule remains as published in *Register of Regulations*, 8 DE Reg. 953 (Jan. 05).

SO ORDERED this 9th day of March, 2005.

Second Order

After due notice in the *Register of Regulations* and two Delaware newspapers, a public hearing was held on March 9, 2005 at a scheduled meeting of the Delaware Board of Landscape Architects to receive comments regarding proposed Regulation 11.0. The proposed regulation identifies crimes substantially related to the practice of landscape architecture as mandated by SB 229 enacted by the 142nd General Assembly. The proposed regulation was published in 8 **DE Reg.** 953 (Jan., 2005).

Background

The enabling legislation for the practice of landscape architecture is found in 24 **Del.C.** Chapter 2. Pursuant to SB 229 the Board is directed to promulgate regulations specifically identifying those crimes which are substantially related to the practice of landscape architecture. “Substantially related” means the nature of the criminal conduct, for which the person was convicted, has a direct bearing on the fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to the practice of architecture. The Board is therefore empowered to promulgate regulations specifically identifying those crimes which are substantially related to the provision of landscape architecture services. This regulation specifically identifies those crimes which are substantially related to the practice of landscape architecture services in Delaware.

The Board believes and finds that the State of Delaware has a compelling public policy interest in ensuring that licensed landscape architects have specified levels of educational and professional competence as well as sufficient character and judgment to practice safely in their chosen fields and to do so in a manner which will not undermine the community’s confidence in the expertise and professionalism of the members of the profession. Landscape architects perform consultation, investigation, research, planning, design, drawing preparation, specifications and contract services in connection with the development of land areas with the primary purpose of the preservation, enhancement or determination of proper land uses. It is therefore critical that all reasonable steps are taken to determine, to the extent possible, that the licensing of landscape architects takes into consideration not only the individual’s technical competence but his or her propensity to behave in a way that does not expose the public to risk. This regulation fosters legitimate expectations of honest and honorable behavior by such licensed professionals in the performance of their duties.

Therefore, the Board finds that conviction of the crimes listed in Exhibit “A” Proposed Regulation 11.0 or substantially similar crimes in another state or jurisdiction, including federal crimes, have a direct bearing on and adversely affect the character and fitness to perform one or more of the duties or responsibilities substantially and necessarily related to the practice of landscape architecture in Delaware.

Summary of the Evidence

No written comments were received. No public comment was received at the March 9, 2005 hearing.

Findings of Fact

The Board carefully reviewed and considered the crimes presented as a compilation of crimes extracted from the **Delaware Code**. The overarching concerns of the Board of Landscape Architecture were the public health, safety and welfare of citizens and the ability to maintain the public trust in the practice of landscape architecture.

The Board finds that the identified crimes are substantially related to fitness or ability to perform 1 or more of the duties and responsibilities of landscape architect in that they involve: the use of physical violence or force, or the threat thereof, toward or upon the person of another; sexual abuse or inappropriate sexual conduct; violation of privacy; dishonesty, or false or fraudulent conduct; mistreatment or abuse of children, the elderly; and offenses involving the illegal possession or the misuse or abuse of narcotics, or other addictive substances and those non-addictive substances with a substantial capacity to impair reason or judgment.

In summary, the Board finds that adopting regulation 11.0 as proposed is in the best interest of the citizens of the State of Delaware and is necessary to protect the health and safety of the individuals who need the services of a landscape architect.

Decision And Effective Date

The Board hereby adopts the changes to Regulation 11.0 attached as Exhibit "A" to be effective 10 days following publication of this order in the *Register of Regulations*. The text of the revised rule remains as published in *Register of Regulations*, 8 DE Reg. 953 (Jan. 05).

SO ORDERED this 9th day of March, 2005.

200 Board of Landscape Architecture

1.0 Filing of Applications for Written Examination

1.1 Persons seeking licensure pursuant to 24 **Del.C.** §206 shall submit an application for written examination on a form prescribed by the Board to the Board's office at the Division of Professional Regulation (the "Division") along with the application fee established by the Division. Applicants for written examination shall be filed in such office of the Board no later than twelve (12) weeks prior to the opening date of the examination.

1.2 Applicants seeking licensure pursuant to 24 **Del.C.** §206(a)(1) shall have graduated from a school or college of landscape architecture approved or accredited by the national Council of Landscape Architectural Registration Boards, the American Society of Landscape Architects Landscape Architectural Accreditation Board, or other legitimate national association of landscape architects.

1.3 For purposes of 24 **Del.C.** §206(a)(3), courses in landscape architecture shall have been taken at a school or college of landscape architecture approved or accredited by the national Council of Landscape Architectural Registration Boards, the American Society of Landscape Architects Landscape Architectural Accreditation Board, or other legitimate national association of landscape architects.

1.4 Each applicant must submit documentary evidence, as more fully described on the application form, to show the Board that the applicant is clearly eligible to sit for the examination under 24 **Del.C.** §206.

1.5 The Board shall not consider an application for written examination until all items described in paragraphs 1.1 and 1.2 of this Rule have been submitted to the Board's office.

1.6 The Board reserves the right to retain as a permanent part of the application any or all documents submitted.

1.7 The examination shall be the Council of Landscape Architectural Registration Board's ("CLARB") current uniform national examination. CLARB establishes a passing score for each uniform national examination.

Statutory Authority: 24 **Del.C.** §§206, 207

5 DE Reg. 821 (10/01/01)

2.0 Filing of Applications for Reciprocity

2.1 Persons seeking licensure pursuant to 24 **Del.C.** §208, shall submit payment of the fee established by the Division and an application on a form prescribed by the Board which shall include proof of licensure and good standing in each state or territory of current licensure, and on what basis the license was obtained therein, including the date licensure was granted. Letters of good standing must also be provided for each state or jurisdiction in which the applicant was ever previously licensed.

2.2 The Board shall not consider an application for licensure by reciprocity until all items described in 24 **Del.C.** §208 and paragraph 2.1 of this Rule have been submitted to the Board's office.

2.3 A passing exam score for purposes of reciprocity shall be the passing score set by CLARB, or the passing score accepted by the Delaware Board, for the year in which the exam was taken.

Statutory Authority: 24 **Del.C.** §208.

3.0 Filing of Applications for Certificate of Authorization

~~Corporations or partnerships seeking a certificate of authorization pursuant to 24 **Del.C.** §212 shall submit an application on a form prescribed by the Board. Such application shall include the (a) names and addresses of all officers and members of the corporation, or officers and partners of the partnership, and (b) the name of a corporate officer in the case of a corporation, or the name of a partner in the case of a partnership, who is licensed to practice landscape architecture in this State and who shall be responsible for services in the practice of landscape architecture on behalf of the corporation or partnership.~~

~~Statutory Authority: 24 **Del.C.** §212.~~

A business entity desiring a certificate of authorization pursuant to 24 **Del.C.** Section 212 shall file with the Board an application, on forms provided by the Board, listing relevant information, including the names and addresses of officers, partners, members, managers or principals of the business entity and also of the individual(s) duly licensed to practice landscape architecture in this State who shall be in responsible charge of the landscape

architecture in compliance with 24 Del.C. Section 212(b)(1), and any other information required by the Board, accompanied by the appropriate fee. A certificate of authorization shall be renewed biennially in such manner as is determined by the Division, and upon payment of the appropriate fee and submission of a renewal form provided by the Division. In the event there should be a change in the information provided in the application for a certificate of authorization, notification of such change shall be provided to the Board in writing within thirty (30) days of the effective date of such change.

4.0 Licenses

Only one license shall be issued to a licensed landscape architect, except for a duplicate issued to replace a lost or destroyed license.

5.0 Seal

5.1 Technical Requirements

5.1.1 For the purpose of signing and sealing drawings, specifications, contract documents, plans, reports and other documents (hereinafter collectively referred to as “drawings”), each landscape architect shall provide him or herself with an individual seal of design and size as approved by the Board to be used as hereinafter directed on documents prepared by him or her or under his/her direct supervision for use in the State of Delaware.

5.1.2 The application of the seal impression or rubber stamp to the first sheet of the bound sheets of the drawings (with index of drawings included), title page of specifications, and other drawings and contract documents shall constitute the licensed landscape architect’s stamp.

5.1.3 The seal to be used by a licensee of the Board shall be of the embossing type or a rubber stamp, and have two (2) concentric circles. The outside circle measures across the center 1 13/16 inches. The inner circle shall contain only the words “NO.” and “State of Delaware.” At the bottom the words “Registered Landscape Architect” reading counterclockwise, and at the top the name of the licensee.

5.1.4 An impression of the seal is to be submitted to the Board to be included in the licensee’s records.

5.2 Use of the Seal

5.2.1 A landscape architect shall not sign or seal drawings unless they were prepared by him/her or under his/her direct supervision.

5.2.2 “Supervision” for purposes of signing and/or sealing drawings shall mean direct supervision, involving responsible control over and detailed professional knowledge of the contents of the drawings throughout their preparation. Reviewing, or reviewing and correcting, drawings 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 drawings throughout their preparation.

5.2.3 The seal appearing on any drawings shall be prima facie evidence that said drawings were prepared by or under the direct supervision of the individual who signed and/or sealed the drawings. Signing or sealing of drawings prepared by another shall be a representation by the registered landscape architect that he/she has detailed professional knowledge of and vouches for the contents of the drawings.

Statutory Authority: 24 Del.C. §205(a)(1); 212(a).

6.0 Renewal of Licenses

6.1 Each application for license renewal or request for inactive status shall be submitted on or before the expiration date of the current licensing period. However, a practitioner may still renew his or her license within 60 days following the license renewal date upon payment of a late fee set by the Division. Upon the expiration of 60 days following the license renewal date an unrenewed license shall be deemed lapsed and the practitioner must reapply pursuant to the terms of 24 Del.C. §210(b).

6.2 It shall be the responsibility of all licensees to keep the Board and the Division informed of any change in name, home or business address.

Statutory Authority: 24 Del.C. §210.

7.0 Continuing Education as a Condition of Biennial Renewal

7.1 General Statement: Each licensee shall be required to meet the continuing education requirements of these guidelines for professional development as a condition for license renewal. Continuing education obtained by a licensee should maintain, improve or expand skills and knowledge obtained prior to initial licensure, or develop new and relevant skills and knowledge.

7.1.1 In order for a licensee to qualify for license renewal as a landscape architect in Delaware, the licensee must have completed 20 hours of continuing education acceptable to the Board within the previous two years, or be granted an extension by the Board for reasons of hardship. Such continuing education shall be obtained by active participation in courses, seminars, sessions, programs or self-directed activities approved by the Board.

7.1.1.1 For purposes of seminar or classroom continuing education, one hour of acceptable continuing education shall mean 60 minutes of instruction.

7.1.2 ~~To be acceptable for credit toward this requirement, all courses, seminars, sessions, programs or self-directed activities shall be submitted to the Board. The Board shall recommend any course, seminar, session or program for continuing education credit that meets the criteria in sub-paragraph 7.1.2.1 below. All courses, seminars, sessions and programs are acceptable for continuing education credit if sponsored by organizations listed in Rule 7.1.3. All other continuing education credits will be reviewed at the time of renewal. All self-directed activities for continuing education credit allowed by Rule 7.6 must be pre-approved and submitted by the licensee 60 days prior to the activity on the form provided in Rules 7.3 and 7.4.~~

7.1.2.1 Each course, seminar, session, program, or self-directed activity to be recommended for approval by the Board shall have a direct relationship to the practice of landscape architecture as defined in the Delaware Code and contain elements which will assist licensees to provide for the health, safety and welfare of the citizens of Delaware served by Delaware licensed landscape architects.

5 DE Reg. 446 (8/1/01)

7.1.3 Continuing Education courses offered or sponsored by the following organizations will be automatically deemed to qualify for continuing education credit:

7.1.3.1 American Society of Landscape Architects (National and local/chapter levels)

7.1.3.2 Council of Landscape Architectural Registration

7.1.4 Erroneous or false information attested to by the licensee shall constitute grounds for denial of license renewal.

7.2 Effective Date: The Board shall commence requiring continuing education as a condition of renewal of a license for the license year commencing on February 1, 1995. The licensee shall be required to successfully complete twenty (20) hours of continuing education within the previous two calendar years (example: February 1, 1993 through January 31, 1995).

7.3 For licensing periods beginning February 1, 2001 and thereafter, documentation as required by Rule 7.4 of all continuing education hours must be submitted to the Board on or before November 1 of the year preceding the biennial renewal date of the licenses. A license shall not be renewed until the Board has approved twenty (20) hours of continuing education classes as provided in Rule 7.1 or has granted an extension of time for reasons of hardship.

7.4 Reporting: The licensee shall submit a completed Verification of Continuing Education Form provided by the Division of Professional Regulation to the Board.

7.4.1 Each licensee must retain copies of all supporting materials documenting proof of continuing education compliance for submission to the Board upon request. Supporting materials include a syllabus, agenda, itinerary or brochure published by the sponsor of the activity and a document showing proof of attendance (i.e., certificate, a signed letter from the sponsor attesting to attendance, report of passing test score). The Board reserves its right to request additional information and/or documentation to verify continuing education compliance.

7.5 Hardship: The Board will consider any reasonable special request from individual licensees for continuing education credits and procedures. The Board may, in individual cases involving physical disability, illness, or extenuating circumstances, grant an extension, not to exceed two (2) years, of time within which continuing education requirements must be completed. In cases of physical disability or illness, the Board reserves the right to require a letter from a physician attesting to the licensee's physical condition. No extension of time shall be granted unless the licensee submits a written request to the Board prior to the expiration of the license.

7.6 Self-directed Activities: For renewal periods beginning February 1, 2001, the following rules regarding self-directed activity shall apply. The Board will have the authority to allow self-directed activities to fulfill the continuing education requirements of the licensees. However, these activities must result in a book draft, published article, delivered paper, workshop, symposium, or public address within the two (2) year reporting period. Self-directed activities must advance the practitioner's knowledge of the field and be beyond the practitioner's normal work duties. Instructors will not be granted CE credit for studies customarily associated with their usual university or college instruction teaching loads.

7.6.1 The Board may, upon request, review and approve credit for self-directed activities in a given biennial licensing period. A licensee must obtain pre-approval of the Board prior to undertaking the self-directed activity in order to assure continuing education credit for the activity. Any self-directed activity submitted for approval must include a written proposal outlining the scope of the activity, the number of continuing education hours requested, the anticipated completion date(s), the role of the licensee in the case of multiple participants and whether

any part of the self-directed activity has ever been previously approved or submitted for credit by the same licensee. Determination of credit will be made by the Board upon review of the completed final project.

7.7 Exemptions: New licensees by way of uniform national examination or by way of reciprocity shall be exempt from the continuing education requirements set forth herein for their first renewal period.

Statutory Authority: 24 **Del.C.** §205(12).

5 DE Reg. 446 (8/1/01)

8.0 Inactive Status

8.1 A licensee may, upon written request to the Board, place his/her license on inactive status.

8.2 A licensee who has been granted inactive status and who wishes to re-enter the practice of landscape architecture, shall submit a written request to the Board along with a pro-rated renewal fee and proof of completion of twenty (20) hours of continuing education during the period of inactive status.

8.3 Licensees on inactive status shall renew their inactive status by notification to the Division of Professional Regulation at the time of biennial license renewal.

Statutory Authority: 24 **Del.C.** §210(c).

9.0 Disciplinary Proceedings and Hearings

9.1 Disciplinary proceedings against any licensee may be initiated by an aggrieved person by submitting a complaint in writing to the Director of the Division of Professional Regulation as specified in 29 **Del.C.** §8807(h)(1)-(3).

9.1.1 A copy of the written complaint shall be forwarded to the administrative assistant for the Board. At the next regularly scheduled Board meeting, a contact person for the Board shall be appointed and a copy of the written complaint given to that person.

9.1.2 The contact person appointed by the Board shall maintain strict confidentiality with respect to the contents of the complaint and shall not discuss the matter with other Board members or with the public. The contact person shall maintain contact with the investigator or deputy attorney general assigned to the case regarding the progress of the investigation.

9.1.3 In the instance when the case is being closed by the Division, the contact person shall report the facts and conclusions to the Board without revealing the identities of the parties involved. No vote of the Board is necessary to close the case.

9.1.4 If a hearing before the Board has been requested by the Deputy Attorney General, a copy of these Rules and Regulations shall be provided to the respondent upon request. The notice of hearing shall fully comply with 29 **Del.C.** Sec. 10122 and 10131 pertaining to the requirements of the notice of proceedings. All notices shall be sent to the respondent's address as reflected in the Board's records.

9.1.5 At any disciplinary hearing, the respondent shall have the right to appear in person or be represented by counsel, or both. The Respondent shall have the right to produce evidence and witnesses on his or her behalf and to cross examine witnesses. The Respondent shall be entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of documents on his or her behalf.

9.1.6 No less than 10 days prior to the date set for a disciplinary hearing, the Department of Justice and the respondent shall submit to the Board and to each other, a list of the witnesses they intend to call at the hearing. Witnesses not listed shall be permitted to testify only upon a showing of reasonable cause for such omission.

9.1.7 If the respondent fails to appear at a disciplinary hearing after receiving the notice required by 29 **Del.C.** §10122 and 10131, the Board may proceed to hear and determine the validity of the charges against the respondent.

Statutory authority: 24 **Del.C.** §§213 and 215; 29 **Del.C.** §§10111, 10122 and 10131

9.2 Hearing procedures

9.2.1 The Board may administer oaths, take testimony, hear proofs and receive exhibits into evidence at any hearing. All testimony at any hearing shall be under oath.

9.2.2 Strict rules of evidence shall not apply. All evidence having probative value commonly accepted by reasonably prudent people in the conduct of their affairs shall be admitted.

9.2.3 An attorney representing a party in a hearing or matter before the Board shall notify the Board of the representation in writing as soon as practicable.

9.2.4 Requests for postponements of any matter scheduled before the Board shall be submitted to the Board's office in writing no less than three (3) days before the date scheduled for the hearing. Absent a showing of

exceptional hardship, there shall be a maximum of one postponement allowed to each party to any hearing.

9.2.5 A complaint shall be deemed to “have merit” and the Board may impose disciplinary sanctions against the licensee if a majority of the members of the Board find, by a preponderance of the evidence, that the respondent has committed the act(s) of which he or she is accused and that those act(s) constitute grounds for discipline pursuant to 24 Del.C. §213.

Statutory authority: 24 Del.C. §§205(7)(8); 213, 214, 215.

10.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals

10.1 If the report is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of Professional Regulation or his/her designate of the report. If the Director of Professional Regulation receives the report, he/she shall immediately notify the chairperson of the regulatory Board, or that chairperson's designate or designates.

10.2 The chairperson of the regulatory Board or that chairperson's designate or designates shall, within 7 days of receipt of the report, contact the individual in question and inform him/her in writing of the report, provide the individual written information describing the Voluntary Treatment Option, and give him/her the opportunity to enter the Voluntary Treatment Option.

10.3 In order for the individual to participate in the Voluntary Treatment Option, he/she shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating Board chairperson or that chairperson's designate(s).

10.4 A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated professional enters into an agreement with the Director of Professional Regulation or his/her designate and the chairperson of the participating Board or that chairperson's designate for a treatment plan and progresses satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the chairperson of the participating Board.

10.5 Failure to cooperate fully with the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board chairperson or that chairperson's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, as outlined in section 10.8.

10.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:

10.6.1 Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.

10.6.2 Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson's designate or designates or to the Director of the Division of Professional Regulation or his/her designate at such intervals as required by the chairperson of the participating Board or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate, and such person making such report will not be liable when such reports are made in good faith and without malice.

10.6.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.

10.6.4 Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment program(s). In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.

10.6.5 Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's chairperson or his/her designate or designates or to the Director of the Division of Professional Regulation or his/ her designate by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.

10.6.6 Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.

10.7 The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.

10.8 The participating Board's chairperson, his/her designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.

10.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.

10.10 Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.

10.11 Any person who reports pursuant to this section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and shall have his/her confidentiality protected if the matter is handled in a nondisciplinary matter.

10.12 Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have his/her confidentiality protected unless otherwise specified in a participating Board's rules and regulations. In such an instance, the written agreement with the regulated professional shall include the potential for disclosure and specify those to whom such information may be disclosed.

11.0 Crimes substantially related to the practice of architecture

11.1 Conviction of any of the following crimes, or of the attempt to commit or of a conspiracy to commit or conceal or of solicitation to commit any of the following crimes, is deemed to be substantially related to the practice of landscape architecture in the State of Delaware without regard to the place of conviction:

- 11.1.1 Conspiracy in the first degree. 11 Del.C. §513.**
- 11.1.2 Aggravated Menacing. 11 Del.C. §602(b).**
- 11.1.3 Reckless endangering in the first degree. 11 Del.C. §604.**
- 11.1.4 Abuse of a pregnant female in the second degree. 11 Del. C. §605.**
- 11.1.5 Abuse of a pregnant female in the first degree. 11 Del.C. §606.**
- 11.1.6 Assault in the second degree. 11 Del.C. §612.**
- 11.1.7 Assault in the first degree. 11 Del.C. §613**
- 11.1.8 Terroristic threatening; felony. 11 Del.C. §621**
- 11.1.9 Vehicular homicide in the first degree. 11 Del.C. §630A.**
- 11.1.10 Murder by abuse or neglect in the second degree. 11 Del.C. §633.**
- 11.1.11 Murder by abuse or neglect in the first degree. 11 Del.C. §634.**
- 11.1.12 Murder in the second degree. 11 Del.C. §635.**
- 11.1.13 Murder in the first degree. 11 Del.C. §636.**
- 11.1.14 Unlawful sexual contact in the second degree. 11 Del.C. §768.**
- 11.1.15 Unlawful sexual contact in the first degree. 11 Del.C. §769.**
- 11.1.16 Rape in the fourth degree. 11 Del.C. §770.**
- 11.1.17 Rape in the third degree. 11 Del.C. §771.**
- 11.1.18 Rape in the second degree. 11 Del.C. §772.**
- 11.1.19 Rape in the first degree. 11 Del.C. §773.**
- 11.1.20 Sexual extortion. 11 Del.C. §776.**
- 11.1.21 Continuous sexual abuse of a child. 11 Del.C. §778.**
- 11.1.22 Female genital mutilation. 11 Del.C. §780.**

- 11.1.23 Unlawful imprisonment in the first degree. 11 Del.C. §782.
- 11.1.24 Kidnapping in the second degree. 11 Del.C. §783.
- 11.1.25 Kidnapping in the first degree. 11 Del.C. §783A.
- 11.1.26 Arson in the second degree. 11 Del.C. §802.
- 11.1.27 Arson in the first degree. 11 Del.C. §803.
- 11.1.28 Burglary in the second degree. 11 Del.C. §825.
- 11.1.29 Burglary in the first degree. 11 Del.C. §826
- 11.1.30 Robbery in the second degree. 11 Del.C. §831.
- 11.1.31 Robbery in the first degree. 11 Del.C. §832.
- 11.1.32 Carjacking in the second degree. 11 Del.C. §835.
- 11.1.33 Carjacking in the first degree. 11 Del.C. §836.
- 11.1.34 Theft. 11 Del.C. §841
- 11.1.35 Theft; false pretenses. 11 Del C. §843
- 11.1.36 Extortion. 11 Del. C. §846.
- 11.1.37 Identity theft. 11 Del.C. §854.
- 11.1.38 Forgery. 11 Del.C. §861.
- 11.1.39 Tampering with public records in the first degree. 11 Del.C. §876.
- 11.1.40 Issuing a false certificate. 11 Del.C. §878.
- 11.1.41 Bribery 11 Del.C. §881.
- 11.1.42 Receiving a bribe 11 Del.C. §882.
- 11.1.43 Criminal impersonation of a police officer. 11 Del.C. §907B.
- 11.1.44 Insurance fraud. 11 Del.C. §913.
- 11.1.45 Dealing in children. 11 Del.C. §1100.
- 11.1.46 Endangering the welfare of a child. 11 Del.C. §1102.
- 11.1.47 Sexual exploitation of a child. 11 Del.C. §1108.
- 11.1.48 Unlawfully dealing in child pornography. 11 Del.C. §1109.
- 11.1.49 Possession of child pornography. 11 Del.C. § 1111.
- 11.1.50 Felony Bribery. 11 Del.C. §1201.
- 11.1.51 Felony Receiving a Bribe. 11 Del.C. §1203.
- 11.1.52 Perjury in the second degree. 11 Del.C. §1222.
- 11.1.53 Perjury in the first degree. 11 Del.C. §1223.
- 11.1.54 Terroristic threatening of public officials or public servants. 11 Del. C. §1240.
- 11.1.55 Unlawfully dealing with a dangerous weapon. 11 Del.C. §1445.
- 11.1.56 Possession of a deadly weapon during commission of a felony. 11 Del.C. §1447.
- 11.1.57 Possession of a firearm during commission of a felony. 11 Del.C. §1447A.
- 11.1.58 Possession and purchase of deadly weapons by persons prohibited. 11 Del.C. §1448.
- 11.1.59 Removing a firearm from the possession of a law enforcement officer. 11 Del.C. §1458.
- 11.1.60 Criminal Penalties, Organized Crime and Racketeering. 11 Del.C. §1504.
- 11.1.61 Victim or Witness intimidation. 11 Del.C. §§3532 & 3533.

11.2 Crimes substantially related to the practice of landscape architecture shall be deemed to include any crimes under any federal law, state law, or valid town, city or county ordinance, that are substantially similar to the crimes identified in this rule.

8 DE Reg. 1431 (4/1/05)