

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
300 BOARD OF ARCHITECTS

Statutory Authority: 24 Delaware Code, Section 306(a)(1) (24 **Del.C.** §306(a)(1))
24 **DE Admin. Code** 300

FINAL

ORDER

300 Board of Architects

NATURE AND STAGE OF THE PROCEEDINGS

On June 1, 2014, the Delaware Board of Architects published proposed changes to its regulations in the Delaware *Register of Regulations*, Volume 17, Issue 12. This notice further indicated that written comments would be accepted by the Board for thirty days, a public hearing would be held, and written comments would be accepted for fifteen days thereafter. After due notice in the *Register of Regulations* and two Delaware newspapers, a public hearing was held on July 2, 2014 at a regularly scheduled meeting of the Delaware Board of Architects to receive verbal comments regarding the Board's proposed amendments to its regulations.

SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

At the time of the deliberations, the Board considered the following documents:

Board Exhibit 1- Affidavit of publication of the public hearing notice in the *News Journal*; and

Board Exhibit 2 -Affidavit of publication of the public hearing notice in the *Delaware State News*.

There was no verbal testimony given at the public hearing on July 2, 2014. No written comments were received by the Board during the initial thirty day public comment period; nor were any written comments received after the public hearing during the fifteen day 29 **Del.C.** §10118(a) second public comment period.

FINDINGS OF FACT AND CONCLUSIONS

1. The public was given notice and an opportunity to provide the Board with comments in writing and by testimony at the public hearing on the proposed amendments to the Board's regulations.
2. There were no additional public comments received during the public hearing or in the 15 day comment period following the hearing.
3. Pursuant to 24 **Del.C.** §306(a)(1), the Board has statutory authority to promulgate rules and regulations clarifying specific statutory sections of its statute.
4. The proposed changes to regulations 7.6.1.1 and 7.6.2 seek to grant authority to licensees to utilize electronic seals whenever the use of an architect's seal is permitted. and allow architects to utilize an electronic signature when signed and sealed submissions are published and/or submitted under the current requirements of regulation 7.6.2.
5. The public was given notice and an opportunity to provide the Board with comments in writing and by testimony at the public hearing on the proposed changes to the Board's rules and regulations.
6. Having received no public comments, the Board finds no reason to amend the regulations as proposed.

DECISION AND EFFECTIVE DATE

The Board hereby adopts the changes to its rules and regulations as proposed, to be effective 10 days following publication of this order in the *Register of Regulations*. The new regulations are attached hereto as Exhibit A.

SO ORDERED this 3rd day of September, 2014.

BY THE DELAWARE BOARD OF ARCHITECTS

John Mateyko, RA, President

Elizabeth Happoldt, Public Member

Paul Guggenberger, RA

Joseph J. Schorah, Jr., Public Member

Richard Wertz, RA

Todd Breck, RA

Kevin W. Wilson, RA, Secretary

Prameela Kaza, Public Member

300 Board of Architects

1.0 Scope: Definitions

Purpose: Regulations of the Delaware Board of Architects are set forth for the purpose of clarifying and implementing 24 **Del.C.** Ch. 3 which establishes the Board and confers upon it responsibility for registration of architects and the regulation of the practice of architecture.

Invalidity: Any provision found to be invalid shall not affect any other provision and the remaining provisions shall remain in full force and effect.

Terms Defined by Statute: Terms defined in 24 **Del.C.** Ch. 3 shall have the same meanings when used in these regulations, except where the context clearly indicates a different meaning.

Terms Defined Herein: As used in these regulations, the following terms shall have the following meanings except where the context clearly indicates a different meaning.

“AIA” means the American Institute of Architects

“Administration of Construction Contracts” Shall comprise at least the following services: (i) visiting the construction site on a regular basis as is necessary to determine that the work is proceeding generally in accordance with the technical submissions submitted to the building official at the time the building permit was issued; (ii) processing shop drawings, samples, and other submittals required of the contractor by the terms of the construction contract documents; and (iii) notifying an owner and the appropriate building official of any code violations, changes that affect code compliance, the use of any materials, assemblies, components, or equipment prohibited by a code, major or substantial changes between such technical submissions and the work in progress, or any deviation from the technical submissions that he or she identifies as constituting a hazard to the public, that he or she observes in the course of performing his or her duties.

“Applicant” means an individual who has submitted an application for registration to the Board.

“Architect” means any person who is authorized to practice architecture as defined in Title 24, Chapter 3 and who holds a current Certificate of Registration.

“Architect Emeritus” means an honorific title granted to a previously licensed Delaware Architect who has retired from active architecture practice.

“A.R.E” means the current Architect Registration Examination, prepared by NCARB.

“Board” means the Delaware Board of Architects, 861 Silver Lake Blvd. Cannon Building, Suite 203, Dover, De 19903.

“CACB” means the Canadian Architectural Certification Board.

“Continuing Education (CE)” means 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.

“Continuing Education Hour (CEH)” means one continuous instructional hour (50 to 60 minutes of contact) spent in Structured Educational Activities intended to increase or update the architect's knowledge and competence in Health, Safety, and Welfare Subjects. If the provider of the Structured Educational Activities prescribes a customary time for completion of such an Activity, then such prescribed time shall, unless the Board finds the prescribed time to be unreasonable, be accepted as the architect's time for Continuing Education Hour purposes irrespective of actual time spent on the activity.

“Direct Supervision” means that degree of supervision by a person overseeing the work of another, whereby the supervisor has both control over and detailed professional knowledge of the work prepared under the person's supervision. Direct supervision shall mean that the supervisor and the individual being supervised perform their work in the same office where personal contact is routine.

“Division” means the Division of Professional Regulation, 861 Silver Lake Boulevard, Cannon Building, Suite 203, Dover, Delaware 19904.

“EESA” means the Educational Evaluation Services for Architects. A provider of architectural education evaluation services administered by NAAB.

“Examination” means the current Architect Registration Examination (A.R.E.), of NCARB.

“Health, Safety, and Welfare Subjects” means technical and professional subjects that the Board deems 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 building environment.

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

CONSTRUCTION CONTRACT ADMINISTRATION: Contracts, Bidding, Contract Negotiations

CONSTRUCTION DOCUMENTS: Drawings, Specifications, Delivery Methods

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

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

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

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

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

PRESERVATION: Historic, Reuse, Adaptation

"IDP" means the Intern Development Program of NCARB.

"IDP Applicant" means an individual who has completed the IDP training requirements set forth herein and has submitted an application for registration to the Board.

"Initial Registration" means Receiving for the first time a certificate of registration as an architect in any United States jurisdiction or Canadian province.

"Intern" means any individual in the process of satisfying the Board's training requirements. This includes graduates from recognized architectural programs, architectural students who acquire acceptable training prior to graduation and other qualified individuals identified by the Board.

"NAAB" means the National Architectural Accrediting Board.

"NCARB" means the National Council of Architectural Registration Boards.

"Other Official" means a vice president, treasurer, secretary or board officer, but shall not mean a subcommittee chairperson, subcommittee member or general member.

"Principal" means an individual who is a registered architect and in charge of an organization's architectural practice, either alone or with other registered architects.

"Responsible Control" means 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, or other sources the architect reasonable 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 submissions throughout their preparation.

"Safety" means design characteristics of a building or its surrounding site relating to, but not limited to, compliance with occupancy classification requirements; compliance with construction classification requirements; means of egress; fire-rated construction assemblies; compliance with interior finish requirements; fire detection, alarm and suppression systems; and compliance with environmental health regulations and smoke control systems, compliance with the minimum requirements for heating and cooling; natural and artificial illumination; natural and artificial ventilation; physical hygiene; and accessibility from environmental barriers.

"Structured Educational Activities" means educational activities in which at least 75 percent of an activity's content and instructional time must be devoted to Health, Safety, and Welfare Subjects related to the practice of architecture, including course of study or other activities under the areas identified as Health, Safety and Welfare Subjects and provided by qualified individuals or organizations, whether delivered by direct contact or distance learning methods.

"Technical Submissions" means designs, drawings, specifications, studies and other technical documents prepared in the course of practicing architecture. All technical submissions shall be identified by date and by the name and address of the registered architect or the registered architect's firm.

"Training Requirements" means the Intern Development Program (IDP) training requirements established from time to time by NCARB for certification by NCARB, as accepted by the Board from time to time.

12 DE Reg. 70 (07/01/08)

15 DE Reg. 1620 (05/01/12)

17 DE Reg. 550 (11/01/13)

2.0 General Provisions

2.1 NCARB:

- 2.1.1 The Board shall maintain membership in NCARB and pay the necessary costs thereof.
- 2.1.2 The Board shall keep up-to-date information on the recommended policies adopted from time to time by NCARB.
- 2.1.3 The Board shall cooperate with NCARB in establishing uniform standards of architectural registration throughout the United States.

2.2 Practice of Architecture:

- 2.2.1 Only architects shall engage in the practice of architecture as defined in 24 **Del.C.** Ch. 3. The practice of architecture means the rendering or offering to render those services, hereinafter described, in connection with the design and construction, enlargement or alteration of a structure or group of structures which have as their principal purpose human habitation or use, and the utilization of space within and surrounding structures; the services referred to include planning, preparing studies, designs, drawings, specifications and other technical submissions and furnishing administration of construction contracts.
- 2.2.2 Services offered in connection with the "utilization of space within" such structures include space planning and programming, and interior design. Services offered in connection with the "space surrounding such structures" include site analysis and site design. These provisions shall not be construed to prevent or affect the practice of landscape architecture by a landscape architect or the practice of engineering by an engineer.
- 2.2.3 The seal of an architect shall not be required for:
 - 2.2.3.1 activities associated with detached, single and two-family dwellings, and any sheds, storage buildings and garages incidental to such dwellings or
 - 2.2.3.2 farm buildings, including barns, silos, sheds or housing for farm equipment and livestock, provided such structures are designed to be occupied by no more than ten (10) persons; or
 - 2.2.3.3 alteration, renovation or remodeling of a structure which does not affect structural or other safety features of the structure, regardless of whether local authorities require a building permit for such work and when the work contemplated by the design does not require the issuance of a permit under applicable building codes.
 - 2.2.3.4 Pursuant to 24 **Del.C.** §303(b)(11) and (12), every person holding a NCARB Certificate, but not registered as an architect in Delaware and intending to offer architectural services in Delaware or participate in an architectural design competition in Delaware shall submit notice of such intent to the Board using the appropriate form appended to these regulations.

12 DE Reg. 70 (07/01/08)

15 DE Reg. 1620 (05/01/12)

3.0 Application for Registration:

- 3.1 Submission of Application fee: Every individual seeking registration shall submit an application to the Board, accompanied by the filing fee established above. Such filing fee shall be determined in accordance with statutory criteria.
 - 3.1.1 References from employers listed on an application for registration must be provided to substantiate the minimum experience required in support of education and training standards. It is the applicant's responsibility to see that fees references are submitted to the Board. Such reference information shall be submitted on forms furnished by the Board.
 - 3.1.2 Proof of self-employment must be substantiated with the following:
 - 3.1.2.1 a copy of business license(s) for those duration's claimed as part of the application or a letter from your accountant or local building official substantiating experience, or similar objective proof of self-employment.
- 3.2 Applicants; General:
 - 3.2.1 Applicants needing additional practical experience reference forms may use photostatic copies.
 - 3.2.2 The Board will take no action to review an application until all references, transcripts and fees are received.
 - 3.2.3 An applicant is not registered until so notified in writing by the Board.
 - 3.2.4 Filing of an application, fees, etc., shall not be construed as completing the registration process; the board will register applicants at regular Board meetings only.
 - 3.2.5 A license issued by the Division of Professional Regulation certifies that the individual named has met the qualifications of the Board to engage in practice.
- 3.3 Requirements of All Applicants. Applicants Must:
 - 3.3.1 submit the required fees
 - 3.3.2 answer all questions on the application form completely and legibly.

- 3.3.3 obtain the notarization of the application in the space provided. Applications shall contain a current affidavit that has been signed and notarized within the twelve (12) months immediately preceding presentation of the application to the Board.
- 3.4 Applicants for Registration by Examination (A.R.E.):
 - 3.4.1 Must have filed a completed application with the Board, including the NCARB record.
 - 3.4.2 An applicant who has met the education requirements as set forth in the NCARB Education Guidelines and has enrolled in the NCARB Intern Development Program by establishing an NCARB Record shall be eligible for admission to examination.]
- 3.5 An applicant re-applying with a lapsed registration shall submit evidence of Continuing Education compliance for the preceding two (2) year period.

15 DE Reg. 1620 (05/01/12)

4.0 Registration Standards:

- 4.1 Registration Standards: To be granted registration an applicant must:
 - 4.1.1 Education – meet the Education Requirements as set forth in the NCARB Education Guidelines. Check NCARB's website, www.ncarb.org for updates and the most current information regarding the NCARB Education Guideline.
 - 4.1.2 Training – meet the Training Requirements set forth in the NCARB Intern Development Program Guidelines (IDP). Check NCARB's website, www.ncarb.org for updates and the most current information regarding the IDP.
 - 4.1.2.1 The IDP is a requirement for all applicants for initial registration in the State of Delaware. Applicants holding a current registration in good standing in another United States jurisdiction or Canadian province and documenting five (5) or more years of practicing architecture immediately preceding the date of the application that is acceptable to the Board may obtain a waiver of the IDP requirement. A request for waiver shall be made on a form prescribed by the Board.
 - 4.1.2.2 The IDP, which is administered by NCARB, will be initiated by completing an application for NCARB/IDP Council Record and submitting required application fees. This application may be obtained from NCARB, 1801 K Street NW, Suite 1100, Washington, D.C. 20006-1310 or www.ncarb.org. Preparation of all components of the IDP record for references, transcripts, training, etc., will be done in accordance with current NCARB standards. The NCARB Council Record will be accepted as verification of education and training requirements for initial registration.
 - 4.1.3 Examination – have passed the Architect Registration Examination (ARE) in accordance with the NCARB pass/fail standards current at the time the applicant takes the Examination.
 - 4.1.4 Have complied with all regulations of the Board and 24 Del.C. Ch. 3.
 - 4.1.5 Agree with the following conditions of examination:
 - 4.1.5.1 take the ARE at any NCARB-approved test center, whether or not it is located in Delaware.
 - 4.1.5.2 to accept the ARE results as determined by NCARB.
 - 4.1.5.3 if there is any alleged misbehavior on the part of an applicant in connection with taking the examination, the board will investigate the allegation and take appropriate action. Misbehavior may include, without limitation, violation of NCARB's guidelines or policies, or an applicant's confidentiality agreements with respect to the examination.

12 DE Reg. 70 (07/01/08)

15 DE Reg. 1620 (05/01/12)

17 DE Reg. 550 (11/01/13)

5.0 Reciprocal Registration

- 5.1 Reciprocal Registration – An applicant who holds a current and valid certification issued by NCARB and submits satisfactory evidence of such certification to the Board shall be registered without the necessity of complying with provisions 4.1.2 through 4.1.4 if he/she:
 - 5.1.1 holds a current and valid registration as an architect issued by a registration authority of the United States or Canada, and submits satisfactory evidence for such registration to the Board, and
 - 5.1.2 files his/her application with the Board, upon a form prescribed by the Board, containing such information satisfactory to the Board concerning the applicant, as the Board considers pertinent, and pays the applicable fee established by the Board.

12 DE Reg. 70 (07/01/08)

6.0 Registration

- 6.1 Duration - Each certificate of registration issued by the Board shall be valid for two years, or the expiration of the current licensing period.
- 6.2 Continuing Education requirements for renewal.
 - 6.2.1 In addition to all other requirements for registration renewal, an architect must complete a minimum of 12 Continuing Education Hours each calendar year or be exempt from these continuing education requirements as provided below. Failure to comply with these requirements may result in non-renewal of the architect's registration. For an architect's initial registration period, the continuing education requirements shall be pro-rated at one Continuing Education Hour per month of registration, beginning with the first full month following the month of issuance, through the end of the renewal cycle. In future renewals, Continuing Education Hours may be reused if there is overlap to meet the calendar year requirements.
 - 6.2.1.1 Continuing Education Hours. 12 Continuing Education Hours must be completed in Health, Safety, and Welfare Subjects acquired in Structured Educational Activities. Continuing Education Hours may be acquired at any location. Excess Continuing Education Hours may not be credited to a future calendar year.
 - 6.2.1.2 Reporting and Record keeping. An architect shall complete and maintain forms as required by the Board certifying that the architect has completed the required Continuing Education Hours. Forms may be audited by the Board for verification of compliance with these requirements. Documentation of reported Continuing Education Hours shall be maintained by the architect for six years from the date of award. If the Board disallows any Continuing Education Hours the architect shall have 60 days from notice of such disallowance either to provide further evidence of having completed the Continuing Education Hours disallowed or to remedy the disallowance by completing the required number of Continuing Education Hours (but such Continuing Education Hours shall not again be used for the next calendar year). 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 in accordance with the Board regulations.
 - 6.2.1.3 Exemptions. An architect shall not be subject to these requirements if:
 - 6.2.1.3.1 The architect has been granted emeritus or other similar honorific but inactive status by the Board; or
 - 6.2.1.3.2 The architect otherwise meets all renewal requirements and is called to active military service, has a serious medical condition, or can demonstrate to the Board other like hardship, then upon the Board's so finding, the architect may be excused from some or all of these requirements.
 - 6.2.2 The following are acceptable Continuing Education:
 - 6.2.2.1 NCARB monograph programs
 - 6.2.2.2 health, safety, and welfare programs approved by the American Institute of Architects (AIA).
- 6.3 Audits and Attestation of Compliance
 - 6.3.1 Random audits shall be performed by the Board. All registrants shall maintain documentation of continuing education, which shall include proof of attendance and verification that the education was an NCARB monograph course or a health, safety, and welfare course approved by the AIA.
 - 6.3.2 Attestation of compliance must be completed.
 - 6.3.3 Attestation of continuing education shall be submitted to the Division of Professional Regulation prior to July 31st of the reporting year.
- 6.4 Hardship Extension: Requests for a hardship extension must be in writing and submitted to the Board prior to the expiration of the licensing period. The Board may, at its discretion, grant an extension of time within which the Continuing Education requirement must be completed. The period of hardship extension granted shall be determined by the Board.
- 6.5 Late Renewal
 - 6.5.1 A registrant that has failed to renew on or before July 31st renewal date may apply to the Board to renew their registration within four (4) months following the renewal date.
 - 6.5.2 All late renewal applications must be accompanied by:
 - 6.5.2.1 Renewal fee

- 6.5.2.2 Late renewal fee
- 6.5.2.3 Documentation of compliance with the continuing education requirement prior to the renewal date.
- 6.5.3 A registrant who has failed to complete the Continuing Education requirement of the previous two calendar years by the July 31st renewal date may request, in writing, an extension of time of no more than four (4) months following the July 31st renewal date to satisfy the immediately preceding two (2) year requirement. The request for an extension must be received by the Board in writing prior to the July 31st renewal date.
- 6.5.4 No continuing education completed during the late period may be used to satisfy future renewal requirements.
- 6.6 Not Transferable - A certificate of registration shall not be transferable.
- 6.7 Revocation, Suspension, Cancellation or Non-renewal of Registration - In the event of revocation, cancellation, suspension or nonrenewal of any registration, the registered architect shall be required immediately to return his/her Certificate of Registration, seal and license to the Board. Civil penalties may be imposed for failure to promptly return the Certificate of Registration, seal and license to the Board. 24 Del.C. §317(d).
- 6.8 Reciprocity
 - 6.8.1 Registration through reciprocity applications shall be governed by 24 Del.C. §309.
 - 6.8.2 Applicants for registration through reciprocity who were previously registered as architects in Delaware and had the Certificate of Registration canceled or lapsed shall be required to certify that they have satisfied the minimum Continuing Education Requirement for Renewal provided in Regulation 6.2 and 6.3 for the two year period preceding the new registration, notwithstanding that the Certificate of Registration was canceled or lapsed.
- 6.9 Architect Emeritus
 - 6.9.1 To qualify for an Architect Emeritus license, the applicant shall:
 - 6.9.1.1 currently be registered as a Delaware Architect; and
 - 6.9.1.2 have been registered as a Delaware Architect for at least the immediate preceding ten years; and
 - 6.9.1.3 not be the subject of a pending disciplinary action related to architectural licensure in this or any other state; and
 - 6.9.1.4 have met all of the annual continuing education requirements of this Board prior to the filing of the application for emeritus status; and
 - 6.9.1.5 have filed an Architect Emeritus application on a form prescribed by the Board along with the required fee; and
 - 6.9.1.6 be at least 65 years old on the date of application for Architect Emeritus status.
 - 6.9.2 A Delaware Architect Emeritus shall:
 - 6.9.2.1 not engage in the practice of architecture; and
 - 6.9.2.2 not be required to complete the annual continuing education requirements; and
 - 6.9.2.3 use the title "Architect Emeritus" in lieu of the title "Architect."
 - 6.9.3 A Delaware Architect Emeritus may re-apply for active status as a registered Delaware Architect provided that the individual has completed 12 continuing education hours of the annual continuing education requirement during the calendar year in which the re-application is filed.

9 DE Reg. 1764 (5/1/06)

12 DE Reg. 70 (07/01/08)

15 DE Reg. 1620 (05/01/12)

17 DE Reg. 550 (11/01/13)

7.0 Rules of Professional Conduct - All architects shall abide by these Rules of Professional Conduct.

- 7.1 Competence
 - 7.1.1 When practicing architecture, an architect shall act with reasonable care and competence, and shall apply the technical knowledge and skill which are ordinarily applied by architects of good standing, practicing in the same locality.
 - 7.1.2 In designing a project, an architect shall take into account applicable building laws and regulations. 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 such regulations, once having obtained such advice, an architect shall not knowingly design a project in violation of such laws and regulation.

- 7.1.3 An architect shall undertake to perform professional services only when he or she, together with those whom the architect may engage as consultants, is qualified by education, training and experience in the specific technical areas involved.
- 7.1.4 No individual shall be permitted to engage in the practice of architecture if, in the Board's judgment, such individual's professional competence is substantially impaired by physical or mental disabilities.

7.2 Conflict of Interest

- 7.2.1 An architect shall not accept compensation for his/her services from more than one party on a project unless the circumstances are fully disclosed to and agreed to by (such disclosure and agreement to be in writing) all interested parties.
- 7.2.2 If an architect has any business association or direct or indirect financial interest which is substantial enough to influence his/her judgment in connection with the performance of professional services, the architect shall fully disclose in writing to his/her client or employee the nature of the business association or financial interest. If the client or employee objects to such association or financial interest, the architect will either terminate such association or interest or offer to give up the commission or employment.
- 7.2.3 An 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.
- 7.2.4 When acting as the interpreter of building contract documents and the judge of contract performance, an architect shall render decisions impartially, favoring neither party to the contract.

7.3 Full Disclosure

- 7.3.1 An architect, making public statements on architectural questions, shall disclose when he/she is being compensated for making such statement or when he/she has an economic interest in the issue.
- 7.3.2 An architect shall accurately represent to prospective or existing client or employee his/her responsibility in connection with work for which he/she is claiming credit.
- 7.3.3 If, in the course of his/her work on a project, an architect becomes aware of a decision taken by his/her employer or client, against such registered architect's advice, which violates applicable state or-municipal building laws and regulations which will, in the registered architect's judgment, materially and adversely affect the safety to the public of the finished project, the architect shall:
 - 7.3.3.1 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 regulations; and
 - 7.3.3.2 refuse to consent to the decision; and
 - 7.3.3.3 in circumstances where the architect reasonably believes that other such decisions will be taken, notwithstanding his/her objection, terminate his/her services with respect to the project. In the case of a termination in accordance with clause 3, the architect shall have no liability to his/her client or employer on account of such termination.
- 7.3.4 An architect shall not deliberately make a materially false statement or fail deliberately to disclose a material fact requested in connection with his/her application for a registration or renewal thereof.
- 7.3.5 An architect possessing knowledge of a violation of the provisions set forth in 7.0 by another architect shall report such knowledge to the Board.

7.4 Compliance with Laws

- 7.4.1 An architect shall not, in the conduct of his or her practice, knowingly violate any state, federal or local law, rule or regulation.
- 7.4.2 An 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 architect is interested.
- 7.4.3 An architect shall comply with the registration laws and regulations governing his/her professional practice in any United States jurisdiction. An architect may be subject to disciplinary action if, based on grounds substantially similar to those which lead to disciplinary action in this jurisdiction, the architect is disciplined in any other United States jurisdiction.
- 7.4.4 An employer engaged in the practice of architecture shall not have been found by a court or an administrative tribunal to have violated any applicable federal or state law protecting the rights of persons working for the employer with respect to fair labor standards or with respect to maintaining a workplace free of discrimination. For purposes of this rule, any registered architect employed by a firm engaged in the practice of architecture who is in charge of the firm's architectural practice, either alone or with other architects, shall be deemed to have violated this rule if the firm has violated this rule.

7.5 Professional Conduct

- 7.5.1 Each office in Delaware offering architectural services shall have an architect resident and regularly employed in that office having direct supervision of such work.
- 7.5.2 An architect may sign and seal technical submissions only if the technical submissions were: (i) prepared by the architect; (ii) prepared by persons under the architect's responsible control; or (iii) prepared by another architect registered in this State 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 the certification issued by NCARB if (a) the signing and sealing architect has reviewed the other architect's work and has integrated the work into his/her own technical submissions and (b) the other architect's technical submissions are prototypical building documents. An 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 has integrated it into his/her own technical submissions. "Responsible control" shall be 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, or 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 knowledge of the content of such submissions throughout their preparation. Any registered architect signing or sealing technical submissions not prepared by that architect but prepared under the 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 (5) years following such signing and sealing, adequate and complete records demonstrating the nature and extent of the 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) and (iv) above shall maintain and make available to the Board upon request for at least five (5) 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/her own technical submissions, and that such review and integration met the required professional standard of care.
- 7.5.3 An 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 architect is interested.
- 7.5.4 An architect shall not engage in conduct involving fraud or wanton disregard of the rights of others.
- 7.5.5 An architect shall not make misleading, deceptive, or false statements or claims.
- 7.6 Design and Use of Architect's Seal
- 7.6.1 Pursuant to 24 **Del.C.** §313, and subject to 6.7 and 7.5, each architect shall procure a seal, which shall contain the name of the architect; his/her registration number and the phrase REGISTERED ARCHITECT-STATE OF DELAWARE. This seal shall comply in all respects, including size and format, with the specimen shown below. The architect shall use his/her legal name on the Certificate of Registration, the seal and the license.



- 7.6.1.1 An electronic seal and signature are permitted to be used in lieu of a stamped impression of the architect's seal and original signature, 24 **Del.C.** §313, when the following conditions are met:
- 7.6.1.1.1 It is a unique identification of the professional;

- 7.6.1.1.2 It is verifiable;
- 7.6.1.1.3 It is under the professional's direct and sole control;
- 7.6.1.1.4 It is linked to a document in such a manner that the electronic seal and signature are invalidated if any data in the document are changed;
- 7.6.1.1.5 The graphic image of the electronic seal shall have the same graphic appearance in all respects as 7.6.1 above.

- 7.6.2 Pursuant to 24 **Del.C.** §313, all technical submissions which are published and/or are submitted to public authorities for building permits or regulatory approvals shall be sealed by the architect. Each design, each drawing, each set of specifications, all addenda and the cover of all other technical submissions shall be sealed. Other technical submissions include designs and drawings of a preliminary nature which are submitted to any public and/or the reviewing agency. When technical submissions are submitted for any permit, at each place where the seal is imprinted, there shall be an original or electronic signature, date of the signature, and the date of expiration of the architect's Delaware registration all located in close proximity to the seal in a format substantially similar to the following:

Signature: _____
Date of signature: _____
Date of registration expiration: _____

- 7.6.3 The seal appearing on any technical submission shall be prima facie evidence that said technical submission was prepared by or under the direct supervision of the individual named on said submission.
- 7.6.4 All technical submissions prepared by an architect shall contain the following legend wherever the architect's seal appears: "The professional services of the architect are undertaken for and are performed in the interest of [name of person employing architect]. No contractual obligation is assumed by the architect for the benefit of any other person involved in the project."
- 7.6.5 Pursuant to 24 **Del.C.** §303(c)(2), if a registered architect has not been employed to furnish construction contract administration services at the time such registered architect issues such technical submissions, the registered architect shall note on such technical submissions that the registered architect has not been so employed by including the following text, in minimum 12 point type, in close proximity to the seal:

The architect who sealed, signed and dated this document has not been employed to furnish construction contract administration services as defined in 24 **Del.C.** §303(c).

- 7.6.6 No person shall remove or alter any seal, signature or date required by 7.6.1, 7.6.4 and/or 7.6.5.

12 DE Reg. 70 (07/01/08)

15 DE Reg. 1620 (05/01/12)

8.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals

- 8.1 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.
- 8.2 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.
- 8.3 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).
- 8.4 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.

- 8.5 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 subsection 8.8 of this section.
- 8.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:
 - 8.6.1 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.
 - 8.6.2 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.
 - 8.6.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.
 - 8.6.4 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.
 - 8.6.5 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.
 - 8.6.6 Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.
- 8.7 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.
- 8.8 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.
- 8.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.
- 8.10 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.
- 8.11 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.
- 8.12 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.

6 DE Reg. 850 (1/1/03)

9.0 Crimes substantially related to the practice of architecture

9.1 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 architecture in the State of Delaware without regard to the place of conviction:

- 9.1.1 Criminal solicitation in the second degree. 11 **Del.C.** §502
- 9.1.2 Criminal solicitation in the first degree. 11 **Del.C.** §503.
- 9.1.3 Conspiracy in the first degree. 11 **Del.C.** §513.
- 9.1.4 Aggravated Menacing. 11 **Del.C.** §602(b).
- 9.1.5 Reckless endangering in the first degree. 11 **Del.C.** §604.
- 9.1.6 Abuse of a pregnant female in the second degree. 11 **Del.C.** §605.
- 9.1.7 Abuse of a pregnant female in the first degree. 11 **Del.C.** §606.
- 9.1.8 Assault in the third degree. 11 **Del.C.** §611
- 9.1.9 Assault in the second degree. 11 **Del.C.** §612.
- 9.1.10 Assault in the first degree. 11 **Del.C.** §613.
- 9.1.11 Terroristic threatening; felony. 11 **Del.C.** §621.
- 9.1.12 Vehicular assault in the first degree 11 **Del.C.** §629.
- 9.1.13 Vehicular homicide in the first degree 11 **Del.C.** §630A.
- 9.1.14 Murder by abuse or neglect in the second degree. 11 **Del.C.** §633.
- 9.1.15 Murder by abuse or neglect in the first degree. 11 **Del.C.** §634.
- 9.1.16 Murder in the second degree. 11 **Del.C.** §635
- 9.1.17 Murder in the first degree. 11 **Del.C.** §636.
- 9.1.18 Unlawful sexual contact in the second degree. 11 **Del.C.** §768.
- 9.1.19 Unlawful sexual contact in the first degree. 11 **Del.C.** §769.
- 9.1.20 Rape in the fourth degree. 11 **Del.C.** §770.
- 9.1.21 Rape in the third degree. 11 **Del.C.** §771.
- 9.1.22 Rape in the second degree. 11 **Del.C.** §772.
- 9.1.23 Rape in the first degree. 11 **Del.C.** §773
- 9.1.24 Sexual extortion. 11 **Del.C.** §776.
- 9.1.25 Continuous sexual abuse of a child. 11 **Del.C.** §778.
- 9.1.26 Female genital mutilation. 11 **Del.C.** §780.
- 9.1.27 Unlawful imprisonment in the first degree. 11 **Del.C.** §782.
- 9.1.28 Kidnapping in the second degree. 11 **Del.C.** §783.
- 9.1.29 Kidnapping in the first degree. 11 **Del.C.** §783A.
- 9.1.30 Arson in the third degree. 11 **Del.C.** §801
- 9.1.31 Arson in the second degree. 11 **Del.C.** §802.
- 9.1.32 Arson in the first degree. 11 **Del.C.** §803.
- 9.1.33 Burglary in the third degree 11 **Del.C.** §824
- 9.1.34 Burglary in the second degree. 11 **Del.C.** §825.
- 9.1.35 Burglary in the first degree. 11 **Del.C.** §826
- 9.1.36 Robbery in the second degree. 11 **Del.C.** §831.
- 9.1.37 Robbery in the first degree. 11 **Del.C.** §832.
- 9.1.38 Carjacking in the second degree. 11 **Del.C.** §835.
- 9.1.39 Carjacking in the first degree. 11 **Del.C.** §836.
- 9.1.40 Theft 11 **Del.C.** §841.
- 9.1.41 Theft; false pretenses 11 **Del.C.** §843
- 9.1.42 Extortion. 11 **Del.C.** §846.
- 9.1.43 Identity theft. 11 **Del.C.** §854.
- 9.1.44 Forgery. 11 **Del.C.** §861.

- a. The person holds a National Council of Architectural Registration Boards (NCARB) certificate and is not currently registered in Delaware, but will be present in Delaware for the purpose of offering to provide architectural services;
- b. The person will deliver a copy of this notice to every potential client to whom the person offers to render architectural services; and
- c. The person will provide the Board with a statement of intent that the person will apply immediately to the Board for registration, if selected as the architect for a project in Delaware.

The undersigned person shall not perform any of the professional services involved in the practice of architecture in Delaware until registered as an architect in Delaware.

Signature of NCARB certificate holder: _____

Date: _____

*_*_*_*_*_*
Del.
Seal
 *_*_*_*_*_*

Notice of Participation in an Architectural Design Competition in Delaware

To: Delaware Board of Architects
 861 Silver Lake Blvd., Suite 203
 Dover, DE 19904

From:

Name of NCARB Certificate holder: _____

NCARB Certificate number: _____

Firm Name: _____

Firm Address: _____

Telephone: _____

Mail: _____

Notice is hereby provided, pursuant to 24 **Del.C.** §303(b)(12), to the Delaware Board of Architects by the undersigned person, that:

- a. The person holds a National Council of Architectural Registration Boards (NCARB) certificate and is not currently registered in Delaware, but will be present in Delaware for the purpose of participating in an architectural design competition;
- b. The person will deliver a copy of this notice to every person conducting architectural design competition in which the person participates; and
- c. The person will provide the Board with a statement of intent that the person will apply immediately to the Board for registration, if selected as the architect for the project.

Signature of NCARB certificate holder: _____

Date: _____

12 DE Reg. 70 (07/01/08)

15 DE Reg. 1620 (05/01/12)

18 DE Reg. 321 (10/01/14) (Final)