

BEFORE THE BOARD OF ARCHITECTS AND LANDSCAPE ARCHITECTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT AND
ARM 24.114.301 definitions,) ADOPTION
24.114.503 licensure of applicants)
from other states, 24.114.2101)
renewals, 24.114.2301)
unprofessional conduct, and the)
adoption of NEW RULE I architect)
continuing education)

TO: All Concerned Persons

1. On March 13, 2014, the Board of Architects and Landscape Architects (board) published MAR Notice No. 24-114-34 regarding the public hearing on the proposed amendment and adoption of the above-stated rules, at page 443 of the 2014 Montana Administrative Register, Issue No. 5.

2. On April 7, 2014, a public hearing was held on the proposed amendment and adoption of the above-stated rules in Helena. Several comments were received by the April 14, 2014, deadline.

3. The board has thoroughly considered the comments received. A summary of the comments received and the board's responses are as follows:

ARM 24.114.301 DEFINITIONS

COMMENT 1: One commenter asserted that the proposed definition of incidental architectural services being added at (3) encourages the continued practice of architecture by engineers. The commenter suggested the board state that it is illegal for engineers to determine their competence for themselves.

RESPONSE 1: The board disagrees with the comment and asserts that leaving the term undefined would actually encourage practice of architecture by engineers. The proposed definition resulted from a combined effort of the board and the Board of Professional Engineers and Professional Land Surveyors. The board has defined the term pursuant to its statutory authority.

ARM 24.114.2301 UNPROFESSIONAL CONDUCT

COMMENT 2: One commenter stated that specific infractions of not meeting the continuing education requirements should be handled as unprofessional conduct.

RESPONSE 2: The board agrees that licensees not meeting the continuing education requirements will face potential discipline on a case-by-case basis

pursuant to the proposed unprofessional conduct language.

NEW RULE I ARCHITECT CONTINUING EDUCATION REQUIREMENTS

COMMENT 3: One commenter agreed that some continuing education (CE) is necessary, but asserted that 12 hours of CE is too much and suggested reducing the number of hours required to eight, which is both more affordable and what California and Nevada require.

RESPONSE 3: The board followed the directive a number of other jurisdictions have already in place, or are in the process of implementing regarding CE requirements. The board concluded that 12 hours of CE is necessary to ensure architects practicing in Montana are maintaining current knowledge and thereby protecting Montana's public health, safety, and welfare. The board also notes that there are numerous CE courses available at little or no cost via the internet.

COMMENT 4: One commenter supported implementing required CE, but suggested the proposed rule recognize AIA-certified courses in areas of health, safety, and welfare. The commenter stated that doing so will allow licensees some measurable assurance that courses would fulfill Montana's CE requirement.

RESPONSE 4: The board followed the directive a number of other jurisdictions have already in place, or are in the process of implementing regarding CE requirements. The board asserts that the course standards in the new rule are necessary to ensure architects practicing in Montana are maintaining current knowledge and protecting Montana's public health, safety, and welfare. If AIA-certified courses fall within the types of courses in the rule, the board will recognize the courses. However, the board agrees that the current language in (3)(b) is not descriptive enough and is amending the rule accordingly.

COMMENT 5: One commenter stated that disallowing carryover CE credits is somewhat restrictive and suggested that the board acknowledge credits obtained within 16 to 18 months of the renewal date. The commenter asserted that doing so would greatly assist licensees with professional scheduling of CE courses. Another commenter stated disallowing carryover credits creates an undue burden on licensees and suggested the board allow a nominal amount of credits, such as six credits, to be carried over.

RESPONSE 5: The board followed the directive a number of other jurisdictions have already in place, or are in the process of implementing regarding CE carryover. The board believes that disallowing carryover credits is necessary to ensure architects practicing in Montana are maintaining current knowledge and thereby protecting Montana's public health, safety, and welfare. The board also notes that there are numerous CE courses available at little or no cost via the internet.

COMMENT 6: One commenter stated course certificates should not be required to contain a state-assigned course number, since courses from the American Institute

of Architects, International Code Council, U.S. Green Building Council, Construction Specifications Institute, International Facility Management Association, and others seldom list exact state code numbers for course approval. The commenter asserted that some of the best courses for CE are provided by specific manufacturers, and those courses also do not have state-assigned course approval numbers.

RESPONSE 6: The board followed the directive a number of other jurisdictions have already in place, or are in the process of implementing regarding the CE requirements. However, the board agrees that (5)(e) is unclear and is amending the rule to clarify that state-assigned course approval numbers are required only when a state assigns them. Montana does not assign approval numbers.

COMMENT 7: One commenter generally supported a CE requirement, but was concerned with the language that a failure to comply with CE requirements may result in disciplinary action. This commenter stated that such language did not provide licensees enough direction as to when discipline would result.

RESPONSE 7: The board disagrees that the language is too vague to put licensees on notice of discipline. Rather, licensees have notice they must obtain CE and if they fail to meet the CE requirements, they may face discipline.

COMMENT 8: One commenter was concerned that the board is not pre-approving CE courses, because licensees should have direction on approved courses, and suggested the board define, qualify, and approve CE courses.

RESPONSE 8: The board followed the directive a number of other jurisdictions have already in place, or are in the process of implementing regarding the continuing education requirements. The board determined that course pre-approval is unnecessary, given that the new rule puts licensees on notice of the types of courses they must attend. All Montana licensees have a professional obligation to ensure they are maintaining current knowledge and thereby protecting Montana's public health, safety, and welfare.

COMMENT 9: One commenter stated that a random audit opens the door for licensees to abuse the CE requirements.

RESPONSE 9: The board disagrees with the comment, and notes that the board's audit process follows the statutory direction and limitations of 37-1-131, MCA, which only permits random, post-renewal CE audits, and only up to 50 percent of active renewed licensees.

COMMENT 10: One commenter stated that granting extensions to licensees who have already failed to meet the CE requirements, allows licensees the option not to obtain any CE unless they are audited.

RESPONSE 10: The board agrees that the extension provisions of (8)(d) may provide opportunities that the board did not anticipate or intend regarding CE

requirements and processes. Therefore, the board is not proceeding with the adoption of (8)(d) at this time.

4. The board has amended ARM 24.114.301, 24.114.503, 24.114.2101, and 24.114.2301 exactly as proposed.

5. The board has adopted NEW RULE I (ARM 24.114.2105) with the following changes, stricken matter interlined, new matter underlined:

NEW RULE I (ARM 24.114.2105) ARCHITECT CONTINUING EDUCATION REQUIREMENTS

(1) through (3)(a) remain as proposed.

(b) at least 75 percent of the any given course's content and instructional time is must be devoted to health, safety, and welfare subjects related to the practice of architecture;

(c) through (5)(d) remain as proposed.

(e) state-assigned course approval number, if applicable; and

(f) through (8)(c) remain as proposed.

~~(d) A 60-day extension will be provided to licensees who fail to meet CE requirements as a result of an audit. Failure to meet the CE requirements by the end of the extension may result in disciplinary action. Any hours obtained during this extension shall not again be used to meet the requirements of a subsequent licensure renewal.~~

(9) and (10) remain as proposed.

BOARD OF ARCHITECTS AND
LANDSCAPE ARCHITECTS
BAYLISS WARD, PRESIDENT

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State August 25, 2014