

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 PUBLIC HEARING ON
ARM 24.114.301 definitions,	)	PROPOSED AMENDMENT AND
24.114.503 licensure of applicants	)	ADOPTION
from other states, 24.114.2101	)	
renewals, and 24.114.2301	)	
unprofessional conduct, and the	)	
adoption of NEW RULE I architect	)	
continuing education	)	

TO: All Concerned Persons

1. On April 7, 2014, at 9:00 a.m., a public hearing will be held in the Large Conference Room, 4th Floor, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Architects and Landscape Architects (board) no later than 5:00 p.m., on March 31, 2014, to advise us of the nature of the accommodation that you need. Please contact Linda Grief, Board of Architects and Landscape Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or e-mail dlibsdark@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

24.114.301 DEFINITIONS (1) and (2) remain the same.

(3) "Incidental architectural services" per 37-65-103, MCA, means:

(a) those architectural services that are incidental to a professional engineer's engineering practice, which:

(i) can be safely and competently performed by the professional engineer without jeopardizing the health, safety, and welfare of the public;

(ii) are in an area where the professional engineer has demonstrated competence by adequate education, training, and experience;

(iii) arise from, and are directly related to professional engineering work performed by the professional engineer;

(iv) are substantially less in scope and magnitude when compared to the professional engineering work performed or to be performed by the professional engineer; and

(v) comply with all of the laws of Montana relating to the practice of architecture.

(b) A professional engineer performing incidental practice as stated in this rule shall:

(i) perform only that part of the work for which the professional engineer is professionally qualified;

(ii) use architects or other appropriately licensed professionals for those portions of the work in which the professional engineer is not qualified;

(iii) assume responsibility for compliance with all laws, codes, rules, and ordinances of the state or its political subdivisions pertaining to the documents; and

(iv) not hold himself/herself out to be an architect or as performing architectural services.

(3) and (4) remain the same, but are renumbered (4) and (5).

~~(5)~~ (6) "Technical submissions" means the drawing, specifications, studies, and other technical reports prepared in the course of practicing architecture.

AUTH: 37-1-131, 37-1-319, 37-65-204, MCA

IMP: 37-1-131, 37-1-319, 37-65-103, 37-65-303, 37-66-304, MCA

**REASON:** After considering complaints targeting "incidental practice," the board determined it is reasonably necessary to define the term as it applies to architectural services provided by licensed professional engineers under the statutory exemption. Section 37-65-103(4), MCA, exempts professional engineers from performing architectural services that are incidental to engineering practice. Section 37-66-105(3), MCA, exempts architects, professional engineers, and professional land surveyors from performing landscape architectural services.

The board formed a joint committee with the Board of Professional Engineers and Professional Land Surveyors and met on several occasions over the course of six months to cooperatively draft language on "incidental practice" for each of the respective boards. The board is now proposing to define "incidental practice" as to professional engineers providing architectural services to clearly set forth the board's intent regarding the parameters of the licensure exemption.

Implementation citations are amended to accurately reflect all statutes implemented through the rule.

24.114.503 LICENSURE OF APPLICANTS REGISTERED IN ANOTHER STATE (1) and (1)(a) remain the same.

(b) present proof the applicant is the holder of a blue cover certificate issued by NCARB. Applications for the certificate shall be sent to NCARB for processing; and

(c) submit verification of previous licensure from the licensing entities in all states where the applicant has been licensed.

AUTH: 37-1-131, 37-65-204, MCA

IMP: 37-1-304, 37-65-301, MCA

**REASON:** The board determined it is reasonably necessary to add verification of previous licensure for those architect applicants registered in other states or jurisdictions. Since the required blue cover certificate issued by the National Council

of Architectural Registration Boards (NCARB) does not contain license verifications from other states or jurisdictions, the board must know whether architect applicants are subject to pending charges or final disciplinary actions in other states or jurisdictions before granting licenses in this state to adequately ensure Montana's public welfare.

24.114.2101 RENEWALS (1) Renewal notices will be sent as specified in ARM 24.101.414.

(2) The renewal date is set by ARM ~~24.101.414~~ 24.101.413.

(3) The provisions of ARM 24.101.408 apply.

AUTH: 37-1-131, ~~37-1-141~~, 37-65-204, MCA

IMP: 37-1-131, 37-1-141, MCA

REASON: It is reasonably necessary to amend this rule to correct the reference to the department rule containing the renewal dates for all professional licensing boards and programs. Authority citations are amended to provide the complete sources of the board's rulemaking authority.

24.114.2301 UNPROFESSIONAL CONDUCT (1) through (1)(n) remain the same.

(o) failure to comply with the continuing education requirement;

(o) and (p) remain the same but are renumbered (p) and (q).

AUTH: 37-1-131, 37-1-319, 37-65-204, MCA

IMP: 37-1-131, 37-1-316, MCA

REASON: The department determined it is reasonably necessary to amend this rule by adding to the actions the board considers unprofessional conduct. The board concluded that requiring continuing education for licensed architects will help ensure better protection of public health, safety, and welfare. This addition to unprofessional conduct will make licensees aware of the negative implications to their licenses if they do not receive continuing education and underscores the board's duty in protecting the public.

4. The rule proposed to be adopted provides as follows:

NEW RULE I ARCHITECT CONTINUING EDUCATION REQUIREMENTS

(1) Beginning January 1, 2015, in addition to all other requirements for renewal, each licensed architect shall obtain at least 12 hours of continuing education (CE) annually to renew the license.

(a) Licensees who have been granted emeritus or other similar honorific status are exempt from the CE requirements.

(b) Continuing education is not required for licensees renewing their licenses for the first time.

(2) Continuing education hours shall be reported as follows:

(a) Licensees shall complete and submit renewal forms certifying that licensees completed 12 hours of continuing education during the calendar year immediately preceding the calendar year in which licensees are renewing. The CE requirement is based on a calendar year, beginning on January 1 and ending December 31 of each year.

(b) Failure to comply with continuing education requirements may result in disciplinary action.

(3) Qualified CE courses must be designed to increase or update the knowledge and competence of architects in technical and professional subjects related to the practice of architecture that safeguard the public's health, safety, and welfare, as follows:

(a) acquired in structured educational activities;

(b) at least 75 percent of the content and instructional time is devoted to health, safety, and welfare subjects related to the practice of architecture;

(c) provided by qualified individuals or organizations; and

(d) included health, safety, and welfare subjects such as technical and professional subjects necessary for proper evaluation, design, construction, and utilization of buildings and the built environment that are within the following enumerated areas:

(i) Building Systems: structural, mechanical, electrical, plumbing, communications, security, fire protection;

(ii) Construction Contract Administration: contracts, bidding, contract negotiations;

(iii) Construction Documents: drawings, specifications, delivery methods;

(iv) Design: urban planning, master planning, building design, site design, interiors, safety and security measures;

(v) Environmental: energy efficiency, sustainability, natural resources, natural hazards, hazardous materials, weatherproofing, insulation;

(vi) Legal: laws, codes, zoning, subdivisions, regulations, standards, life safety, accessibility, ethics, insurance to protect owners and public;

(vii) Materials and Methods: construction systems, products, finishes, furnishings, equipment;

(viii) Occupant Comfort: air quality, lighting, acoustics, ergonomics;

(ix) Pre-Design: land use analysis, programming, site selection, site and soils analysis, surveying; and

(x) Preservation: historic, reuse, adaptation.

(4) Continuing education may be acquired at any location, whether direct contact or distance learning through qualified course sponsors. The department will not pre-approve CE courses.

(5) All licensees shall retain course completion certificates for a minimum of six years, for auditing purposes. Course completion certificates must contain all of the following:

(a) date of course;

(b) location of course;

(c) name of instructor(s);

(d) name of licensee;

(e) state-assigned course approval number; and

(f) number of completed hours of instruction.

(6) Continuing education hours may not be carried over to a future calendar year.

(7) For quality assurance and evaluation purposes, department or board representatives may audit CE courses for content without cost. Such representatives are not eligible for and may not receive certificates of completion.

(8) Beginning in 2016, the department may conduct an annual random audit of all licensees for CE compliance following the licensee renewal process indicated in (2).

(a) Audited licensees must furnish to the department certificates of completion or other documentation to verify completion of the 12-hour CE requirement.

(b) Failure to provide certificates of completion when audited constitutes unprofessional conduct and may result in disciplinary proceedings against the licensee.

(c) Licensees shall retain course completion certificates for a minimum of six years for auditing purposes.

(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) All licensees reactivating expired licenses must submit documentary proof of meeting CE requirements required to become active.

(10) If a licensee does not file a timely renewal application and thereafter files a late renewal application, the late renewal application must contain documentary proof the licensee met the CE requirements incorporating the year prior to the renewal application year.

AUTH: 37-1-131, 37-1-319, 37-65-204, MCA

IMP: 37-1-131, 37-1-141, 37-1-306, MCA

REASON: The board determined it is reasonably necessary to add a continuing education (CE) requirement for Montana licensed architects. The board notes that several other states and countries have implemented or are in the process of implementing CE requirements for architects. These jurisdictions include Alabama, Alaska, Arkansas, California, Colorado, Delaware, District of Columbia, Florida, Georgia, Guam, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. The board concluded that adding this CE requirement will help ensure that architects are maintaining current knowledge on various professional and technical subjects, and ultimately result in better protection of Montana's public health, safety, and welfare.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Architects and Landscape Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to [dlibsdark@mt.gov](mailto:dlibsdark@mt.gov), and must be received no later than 5:00 p.m., April 14, 2014.

6. An electronic copy of this notice of public hearing is available at [www.architect.mt.gov](http://www.architect.mt.gov) (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Architects and Landscape Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to [dlibsdark@mt.gov](mailto:dlibsdark@mt.gov); or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply to this rules project.

9. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.114.301, 24.114.503, 24.114.2101, and 24.114.2301 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the adoption of NEW RULE I will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Architects and Landscape Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; facsimile (406) 841-2305; or e-mail [dlibsdark@mt.gov](mailto:dlibsdark@mt.gov).

10. Joslyn Hunt, attorney, has been designated to preside over and conduct this hearing.

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 March 3, 2014