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231 CMR 2.00: General Provisions

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2.01: Purpose

The purpose of 231 CMR 2.00 through 4.00 is to establish the requirements and procedures for registration of architects, and prescribe standards of professional service and conduct to be followed by such registered architects, in the Commonwealth of Massachusetts.

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2.02: Authority

231 CMR 2.00 through 4.00 inclusive are adopted by the Board pursuant to the authority granted to the Board by M.G.L. c. 13, s. 44C, and have been promulgated in accordance with M.G.L. c. 112, ss. 60A to 60O, inclusive, and the applicable provisions of M.G.L. c. 30A.

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2.03: Severability

If any provision of 231 CMR 2.00 through 4.00, or the application of any such provision to any person or circumstances, is held to be invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or applications of 231 CMR 2.00 through 4.00 which can be given effect without the invalid provision or application. To this end, the provisions of 231 CMR 2.00 through 4.00 are declared to be severable.

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2.04: Definitions

(1) The meanings of words as defined in M.G.L. c. 112, s. 60A shall apply in 231 CMR 2.00 through 4.00 unless otherwise required by the context.

(2) The following words, as used in M.G.L. c. 112, ss. 60A to 60O inclusive and in 231 CMR 2.00 through 4.00, shall have the following meanings unless the context requires otherwise:

A.R.E. – means the current Architectural Registration Examination as prepared by the National Council of Architectural Registration Boards (NCARB).

Board - means the Massachusetts Board of Registration of Architects

CACB – means the Canadian Architectural Certification Board.

Certificate of Registration - means a license issued by the Board pursuant to M.G.L. c. 112, s. 60C which authorizes an individual to engage in the practice of architecture in the Commonwealth of Massachusetts.

Contact Hour – means a unit of measurement of learning experience lasting fifty (50) consecutive minutes.

Examination - means the Architectural Registration Examination (A.R.E.) as prepared by the National Council of Architectural Registration Boards (NCARB) and accepted by the Board.

Intern-Architect Development Program or IDP – means a comprehensive program of training and experience in the practice of architecture which may begin after completion of the third year of a professional degree program in architecture and which meets the standards and criteria set by the National Council of Architectural Registration Boards, as set forth in the NCARB Intern Development Program Guidelines as published in September, 2001.

NAAB – means the National Architectural Accrediting Board.

NCARB - means the National Council of Architectural Registration Boards.

Plans - means any drawings or graphic representations, any combination of drawings or graphic representations, or any reproduction of the same, whether in print media or electronic media, which are prepared for the purpose of illustrating proposed or intended designs for the construction, enlargement or alteration of any building or project.

Registered Architect - means any person duly licensed as an architect by the Board and thereby authorized to engage in the practice of architecture in the Commonwealth of Massachusetts.

Registration Card - means the evidence of initial and annual registration as an architect issued by the Board.

Registration Period - means the one-year period between registration renewals which begins on September 1 of each calendar year and ends on August 31 of the next calendar year.

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 registered architects applying the required professional standard of care. Reviewing, or reviewing and correcting, technical submissions after they have been prepared by others shall not constitute the exercise of responsible control except as permitted by 231 CMR 4.01(5).

Specifications - means any written instructions, or reproduction of the same, describing any material or method of construction, enlargement or alteration of any building or project.

Technical Submissions - means plans, designs, drawings, specifications, studies and other technical reports prepared in the course of practicing architecture.

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2.05: Duties of the Board

The duties of the Board shall include, but shall not be limited to, the following:

- (1) To establish the conditions and qualifications required for registration as an architect in the Commonwealth of Massachusetts, in accordance with M.G.L. c. 112, ss. 60A through 60O;
- (2) To determine the eligibility of applicants for registration;
- (3) To prescribe and conduct examinations for the registration of architects;
- (4) To evaluate and determine the eligibility of out-of-state and Canadian architects for registration as architects in the Commonwealth of Massachusetts by means of reciprocity in accordance with the procedures established by the National Council of Architectural Registration Boards;
- (5) To issue certificates of registration to all individuals who have met all of the applicable requirements for registration;
- (6) To establish and maintain records of the names and addresses of all registered architects in the Commonwealth of Massachusetts;
- (7) To make such rules and regulations as are necessary and proper for the performance of its duties;
- (8) To investigate complaints of possible violations of any of the provisions of M.G.L. c. 112, ss. 60A through 60O and/or 231 CMR 2.00 through 4.00, or of the accepted standards of practice for architects;
- (9) To take such disciplinary action as may be appropriate in the case of any violation of any of the provisions of M.G.L. c. 112, ss. 60A through 60O or 231 CMR 2.00 through 4.00; and
- (10) To perform such other duties and functions as may be necessary and proper for the administration and enforcement of M.G.L. c. 112, ss. 60A through 60O.

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2.06: Board Procedures

(1) **Board Meetings** - In addition to the two regular meetings prescribed by law, the Board shall hold additional meetings at the call of its Chairman or Secretary, who shall give due notice of the time and place of such meetings. Three members of the Board shall constitute a quorum for the transaction of business, but not less than three like votes shall constitute a majority necessary for official action by the Board. Executive sessions shall be conducted only for the purposes authorized by M.G.L. c. 30A, s. 11A 1/2, and shall be conducted in accordance with that statute.

(2) **Officers** - Officers of the Board shall be elected and shall serve as prescribed by M.G.L. c. 13, s. 44B.

(3) **Membership in NCARB** - The Board shall maintain membership in the National Council of Architectural Registration Boards (NCARB). The Board shall maintain up-to-date information on the policies and procedures adopted from time to time by NCARB, and shall cooperate with NCARB in establishing and maintaining uniform standards of professional qualification throughout the United States and Canada.

(4) **Membership in NECARB** - The Board shall maintain membership in the New England Conference of Architectural Registration Boards (NECARB), shall attend meetings of the Conference, and shall cooperate with the other member boards of that organization for the purpose of establishing like policies and standards concerning the registration of architects and the enforcement of laws regulating the practice of architecture in the New England

states.

(5) **Roster** - The Board shall establish and maintain an annual roster of duly registered architects in the Commonwealth of Massachusetts, which shall show the name, registration number and last known mailing address of each such registered architect.

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REGULATORY AUTHORITY:

231 CMR 2.00: M.G.L. c. 13, §§ 44A 44D; M.G.L. c. 112, §§ 60A through 60-O.

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231 CMR 3.00: Procedures for Application, Examination and Registration

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3.01: Application Procedure

(1) **Filing of Applications** - Applications for registration as an architect shall be made on forms obtained from the Board. Application forms shall be filled in completely and shall be accompanied by a photograph and a check or money order in the amount of the fee established by the Executive Office of Administration and Finance pursuant to M.G.L. c. 7, s. 3B. Supplemental applications shall be completed in full and shall include copies of all information which accompanied the original application.

(2) **Board Action on Applications** - When an application is complete, fully processed and ready for Board action, it shall be reviewed by the Board. The applicant will be notified of the Board's decision in writing.

(3) **Interviews** - The Board may, at its discretion, conduct informal interviews with an applicant, or with any person supplying information in connection with any applicant's application, for the purpose of obtaining additional information or clarifying any ambiguities in any information concerning an applicant or registrant.

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3.02: Eligibility Requirements for Registration

(1) Eligibility for admission to the A.R.E. shall be determined by the Board after review and verification of information contained in the application.

(2) To be eligible for admission to the knowledge-based portions of the A.R.E. as determined by the Board, an applicant shall:

- (a) Submit written proof satisfactory to the Board that he or she is at least twenty-one years of age;
- (b) Submit satisfactory written proof, from individuals having direct knowledge of the applicant's qualifications and suitability to become an architect, that he or she is of good moral character; and
- (c) Submit written proof satisfactory to the Board that he or she holds a professional degree in architecture from a degree program that has been accredited by NAAB or CACB, or has otherwise satisfied the educational requirements specified in the NCARB Education Standard, as published in July, 2001.

For purposes of 231 CMR 3.02(2)(c), an NAAB accredited degree is a professional degree in architecture earned in a degree program accredited by the National Architectural Accrediting Board not later than two years after termination of enrollment. A CACB-accredited degree is a professional degree in architecture earned in a degree program accredited by the Canadian Architectural Certification Board not later than two years after termination of enrollment.

(3) To be eligible for admission to the practice-based portions of the A.R.E. as determined by the Board, an applicant shall:

- (a) Submit satisfactory written proof that he or she has met all of the requirements of 231 CMR 3.02(2); and
- (b) Submit written proof satisfactory to the Board that he or she has successfully completed:
 1. An Intern-Architect Development Program (IDP) which meets the training criteria set forth in the NCARB Intern Development Program Guidelines, as published in September, 2001; or
 2. An equivalent intern development or training program in Canada which meets the NCARB Requirements for Certification of Canadian Architects, as amended in July, 1999.

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3.03: Examination Procedures

- (1) The examination for applicants who are eligible for admission and registration shall be the current A.R.E., as prepared by NCARB and as accepted and administered on behalf of the Board.
- (2) Applicants shall take the examination subject to the following conditions:
 - (a) Grading of the examination shall be in accordance with the national grading procedures and passing score standards which are established by NCARB, and which are approved by the Board;
 - (b) No information pertaining to the subject matter of the examination shall be given to any applicant in advance except as specifically authorized by NCARB;
 - (c) Transfer credits for divisions of the examination passed prior to the currently-administered A.R.E. shall be in accordance with policies established by the Board, which may be those which are recommended by NCARB. Information as to transfer credits shall be provided, when appropriate, to applicants as a supplement to the application forms;
 - (d) An applicant may take the A.R.E., or any portion thereof, at any NCARB-approved test center, whether located in or outside of Massachusetts.
- (3) The fees for the A.R.E. which are paid to the Board, if any, shall be as approved by the Executive Office of Administration and Finance pursuant to M.G.L. c. 7, s. 3B. Fees shall not be refunded under any circumstances.
- (4) A record shall be maintained for each applicant, showing the dates on which that applicant took each division of the A.R.E., the number of divisions of the A.R.E. completed by that applicant, and the number of divisions not completed to date.
- (5) An applicant shall not be permitted to review or appeal any division of the A.R.E. which he or she fails.
- (6) Upon proper application, the Board may, at its discretion, accept passing grades achieved by an applicant on the various divisions of the A.R.E. in another state or territory of the United States, as long as the examination was administered by, and the grades are attested to by NCARB or by any NCARB Member Board in accordance with NCARB recommended grading procedures and passing score standards. Such an applicant may then take the remaining divisions of the A.R.E.. If the applicant completes those remaining divisions successfully, and submits proof that he or she meets the eligibility requirements for registration, as set forth in 231 CMR 3.02, he or she may then be registered by the Board.
- (7) Upon proper application, the Board may, at its discretion, accept passing grades achieved by an applicant on examinations taken in Canadian provinces, as long as those examinations meet the requirements set forth in the NCARB Intern Development Program Guidelines, as published in September, 2001.
- (8) Upon written request by an applicant, the Board shall forward the grades achieved by that applicant in the various divisions of the A.R.E. in Massachusetts to other NCARB Member Boards or duly constituted architectural registration boards in Canada for their use in evaluating that applicant and determining whether he or she may be registered within their jurisdiction. An applicant requesting a transfer of such grades to another jurisdiction shall pay a fee for this service to be established by the Executive Office of Administration and Finance pursuant to M.G.L. c. 7, s. 3B. A transfer of an applicant's grades to another jurisdiction shall terminate that applicant's pending application for registration in Massachusetts.
- (9) An applicant who holds a current and valid certification issued by NCARB and who submits satisfactory evidence of such certification to the Board shall be registered without having to comply with the requirements of 231 CMR 3.02 or 231 CMR 3.03 if:
 - a. The applicant also submits satisfactory evidence that he or she holds a current and valid registration issued by any other NCARB Member Board or by any architectural registration board in Canada; and
 - b. The applicant files an application with the Board, on a form prescribed by the Board, containing such additional information, satisfactory to the Board, as the Board considers pertinent.

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3.04: Registration Procedures

- (1) If, after review of an applicant's application and examination results, the Board determines that the applicant has the qualifications required to practice architecture in the Commonwealth of Massachusetts, the Board shall issue a certificate of registration to that applicant. The certificate of registration shall have a seal attached, containing the name of the person to whom it is issued and his or her registration number, and shall be signed by duly authorized representative(s) of the Board. This certificate of registration shall constitute prima facie evidence that the person named in that certificate is authorized to engage in the practice of architecture in Massachusetts.
- (2) At the time of initial registration, the Board shall also issue a registration card to the registrant, which shall

contain the registrant's name and address, his or her registration number, and such other information as the Board may prescribe. This registration card shall also constitute prima facie evidence that the person named on the card is lawfully authorized to practice architecture in Massachusetts.

(3) An individual's registration and right to practice shall commence upon the issuance of a registration card and registration number to him or her. Unless that registration is revoked, suspended or cancelled, it shall remain in effect until the expiration date shown on the certificate. If the registrant submits an application for renewal of that registration pursuant to 231 CMR 3.05, together with payment of the annual registration renewal fee prescribed by the Executive Office of Administration and Finance pursuant to M.G.L. c.7, s. 3B, prior to the expiration date shown on the certificate, the registrant's registration shall continue in effect until the Board actually issues his or her annual renewal registration. Failure to pay the annual registration renewal fee shall constitute sufficient grounds for refusal of the Board to renew the individual's registration.

(4) After initial registration, the Board shall enter the registrant's registration number, the date of his or her initial registration, and the basis upon which he or she was registered, into a permanent file on the registrant.

(5) Registration as an architect shall not be transferable, and the authorization to practice architecture conveyed to an individual by that registration shall not extend to any other individual or individuals.

(6) In the event of revocation, cancellation, suspension or annulment of an individual's registration, that individual shall immediately return his or her certificate of registration and annual registration card, and his or her seal shall be impounded. A person whose certificate of registration has been revoked, suspended or annulled shall be informed of his rights under the provisions of M.G.L. c. 30A at the same time that he or she is informed of the Board's action on his or her certificate.

(7) If a registered architect dies, his or her registration shall expire on the date of his or her death, and no further use of his or her professional stamp or seal shall be made by any person after that date.

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3.05: Renewal of Registration

(1) An individual's certificate of registration as an architect shall expire on August 31 of each calendar year. However, if an architect dies, his or her registration shall expire on the date of his or her death, and no further use of his or her professional stamp or seal shall be made after that date.

(2) Every registered architect shall apply for renewal of his or her certificate of registration on or before August 31 of each calendar year. Said application shall be accompanied by payment of the registration renewal fee prescribed by the Executive Office of Administration and Finance pursuant to M.G.L. c.7, s. 3B, and the applicant shall attest, under the pains and penalties of perjury, that he or she is in compliance with the continuing education requirements of 231 CMR 3.06.

(3) If a registered architect allows his/her registration to expire, but attempts to renew it within sixty days after the date of its expiration, said registrant may obtain renewal of his/her registration by submitting the renewal application to the Board, together with the required evidence of continuing education as required by 231 CMR 3.06, the appropriate fee for registration renewal and any late fee as may be established by the Executive Office of Administration and Finance pursuant to M.G.L. c. 7, s. 3B.

(4) If a registered architect allows his/her registration to expire and does not attempt to renew it within sixty days after the date of its expiration, the registrant shall be treated as though he/she were applying for initial registration and may be required to take and pass the examination for initial registration and pay all applicable fees.

(5) The Board may suspend, revoke, or refuse to renew the registration of an architect who fails to comply with the continuing education requirements of 231 CMR 3.06.

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3.06: Continuing Education Requirements

(1) **General Requirement** - Beginning with the registration period which begins on September 1, 2002 and ends on August 31, 2003, every registered architect shall complete a minimum of twelve (12) contact hours of continuing education prior to the end of each registration period in continuing education courses, programs or activities which meet the applicable requirements of 231 CMR 3.06(3) through 231 CMR 3.06(6) as a condition for renewal of his or her registration.

(2) **Exemption from Requirement** - A registered architect may be exempted from the continuing education requirements of 231 CMR 3.06(1) if:

(a) He or she submits written proof satisfactory to the Board that he or she was unable to complete the continuing education required by 231 CMR 3.06(1) because he or she was called to active duty in the armed forces of the United States for a substantial period of time; or

(b) He or she submits written proof satisfactory to the Board that he or she was ill or disabled for a substantial period of time and that the functional limitations imposed by that illness or disability prevented him or her from completing the continuing education required by 231 CMR 3.06(1); or

(c) He or she submits written proof satisfactory to the Board that he or she was unable to complete the continuing education required by 231 CMR 3.06(1) because of an unforeseen emergency, extreme hardship or other similar circumstances deemed sufficient by the Board; or

(d) He or she submits written proof satisfactory to the Board that:

1. He or she is duly registered as an architect by a duly constituted architectural registration board in another state, province or territory of the United States or Canada in which continuing education is required for renewal of his or her registration;
2. He or she has completed the continuing education required for the most recent period of renewal of his or her registration by the laws or regulations of the architectural registration board in that state, province or territory; and
3. The continuing education requirements of the architectural registration board in that state, province or territory are, in the opinion of the Board, substantially equivalent to the requirements of 231 CMR 3.06.

(3) Program Content Requirements

(a) A continuing education course, program or activity may be used to satisfy the continuing education requirements of 231 CMR 3.06(1) only if it increases an architect's knowledge or understanding of technical or professional subjects and contributes directly to improving his or her professional knowledge and competence in the practice of architecture.

(b) At least eight (8) contact hours of the continuing education required by 231 CMR 3.06(1) in each registration period shall be in courses, programs or activities pertaining to technical and professional subjects which the Board has determined are directly related to protection of the health, safety and welfare of the public. Such subjects include:

1. Building design;
2. Environmental or land use analysis;
3. Life safety standards;
4. Architectural programming;
5. Site and soil analyses;
6. Accessibility of buildings and structures;
7. Structural systems considerations;
8. Lateral forces;
9. Building codes;
10. Evaluation and selection of building systems, products or materials;
11. Construction methods;
12. Contract documentation;
13. Construction administration;
14. Professional conduct; and
15. Such other subjects as the Board deems sufficiently related to protection of the public health, safety or welfare.

(4) **Methods of Earning Continuing Education Credit** - A registered architect may earn continuing education contact hours for any of the following types of continuing education activities:

(a) Attending a graduate or undergraduate level course or seminar at an educational institution for which academic credit is granted by that institution, as long as:

1. The course or seminar in question meets the program content requirements of 231 CMR 3.06(3)(a); and
2. The educational institution in question is accredited by the United States Department of Education, accredited by a regional accrediting body recognized by the United States Department of Education, or is otherwise approved by the Board;

(b) Attending a course, program, seminar, conference, workshop or similar educational event for which academic credit is not granted, as long as:

1. The educational event in question meets the program content requirements of 231 CMR 3.06(3)(a);
2. The educational event in question is presented, sponsored or approved by an educational institution which meets the requirements of 231 CMR 3.06(4)(a)2, or by a recognized professional organization; and
3. The educational event in question meets the standards of, and has been approved for continuing education credit by:
 - a. The American Institute of Architects; or
 - b. NCARB.

(c) Completing a monograph approved by the Board (such as a monograph from the NCARB monograph series) and achieving a passing score on a written instrument which tests the registered architect on his or her

comprehension and understanding of the content of that monograph;

(d) Teaching a graduate or undergraduate level course or seminar at an educational institution for which academic credit is granted by that institution, as long as the course or seminar meets the requirements of 231 CMR 3.06(4)(a);

(e) Teaching a course or seminar, delivering a lecture, presenting a paper, or presenting a program, workshop or monograph at an educational event which meets the requirements of 231 CMR 3.06(4)(b);

(f) Publishing a book, or an article or paper in a juried professional journal, for the first time, as long as:

1. The book, article or paper in question meets the content requirements of 231 CMR 3.06(3)(a); and
2. A copy of the book, article or paper in question is submitted to the Board for review and approval at least sixty (60) days prior to the end of the registration period for which continuing education credit is being claimed.

(g) Completing a self-study program or other individualized continuing education activity, as long as:

1. The self-study program or individualized continuing education activity meets the content requirements of 231 CMR 3.06(3)(a); and
2. A detailed written description of the self-study program or individualized continuing education activity in question is submitted to the Board for review, and the proposed program or activity is approved by the Board pursuant to 231 CMR 3.06(6), before it is undertaken.

(5) Amount of Credit Earned - The amount of continuing education contact hours to be granted shall be determined as follows:

- a. A registered architect who attends a graduate or undergraduate level course or seminar at an educational institution which meets the requirements of 231 CMR 3.06(4)(a) shall earn 12 continuing education contact hours for each hour of academic credit received;
- b. A registered architect who attends a course, seminar, program, conference, workshop or similar educational event which meets the requirements of 231 CMR 3.06(4)(b) shall earn a number of continuing education contact hours equal to the actual number of hours of instruction actually provided;
- c. A registered architect who completes a monograph approved by the Board which meets the requirements of 231 CMR 3.06(4)(c) shall earn the number of continuing education contact hours specified in that monograph;
- d. A registered architect who teaches a graduate or undergraduate level course or seminar at an educational institution which meets the requirements of 231 CMR 3.06(4)(a) shall earn 12 continuing education contact hours for each hour of academic credit awarded for that course or seminar, but shall earn such credit only for the first time that he or she teaches that course or seminar, and shall not earn any continuing education contact hours for any subsequent presentation of the same course or seminar;
- e. A registered architect who teaches a course or seminar; delivers a lecture; presents a paper; or presents a program, workshop or monograph at an educational event which meets the requirements of 231 CMR 3.06(4)(b); shall earn a number of continuing education contact hours equal to the actual number of hours of instruction he or she actually provided, but shall earn such credit only for the first time that he or she does so, and shall not earn any continuing education contact hours for any subsequent presentation of the same or similar activity;
- f. A registered architect who publishes a book, or an article in a juried professional journal, shall earn the number of continuing education contact hours determined by the Board for that book or article, but shall not earn more than 50% of the total number of continuing education contact hours required during any registration period through this method unless the Board directs otherwise;
- g. A registered architect who completes a self-study program, or other individualized continuing education activity approved by the Board pursuant to 231 CMR 3.06(4)(f) and 231 CMR 3.06(6), shall earn the number of continuing education contact hours approved by the Board for that activity, but shall not earn more than 50% of the total number of continuing education contact hours required during any registration period through this method unless the Board directs otherwise.

(6) Completion of Continuing Education Through Home Study - A registered architect may complete continuing education required for renewal of his or her registration through the use, at his or her home, of audio tapes or videotapes of a continuing education course or program, as long as:

(a) The continuing education course or program in question meets all applicable requirements of 231 CMR 3.06(4)(b);

(b) The audio tape or videotape version of the continuing education course or program in question is accompanied by a written instrument which tests the registered architect on his or her comprehension and understanding of the content of that course or program;

(c) The registered architect receives a certificate or other written evidence of his or her completion of that course or program only if he or she demonstrates satisfactory comprehension or understanding of the content of that course or program to the provider or sponsor of that course or program; and

(d) The registered architect does not receive credit for more than fifty percent (50%) of the total number of continuing education hours required for renewal of his or her registration through the use of such home study programs, unless he or she receives written authorization to do otherwise from the Board.

(7) Each registered architect shall maintain a written record of all continuing education courses or programs and/or approved individual continuing education activities he or she has completed for a period of not less than two (2) consecutive registration periods, inclusive of the registration period during which the course, program or activity was completed.

(8) Each registered architect, as part of his or her application for renewal of his or her registration, shall attest under the pains and penalties of perjury that he or she has completed the number of continuing education hours required by 231 CMR 3.06(1), or that he or she is exempt from the continuing education requirement pursuant to 231 CMR 3.06(2). Such attestation shall be made on a form prescribed and provided by the Board.

(9) Upon written request by the Board, a registered architect shall furnish to the Board such information as the Board may reasonably require about any or all continuing education courses, programs or activities completed by said architect. Failure or refusal to provide timely proof of completion of the number of continuing education hours required by 231 CMR 3.06 upon the request of the Board shall constitute grounds for disciplinary action by the Board, including but not limited to refusal to renew the registration of said architect.

(10) Falsification of reports of continuing education courses, seminars, workshops and completed hours, or misrepresentation of any material fact concerning the completion of such continuing education hours, by any registered architect shall constitute grounds for disciplinary action by the Board.

(11) In the event that an application for approval of a specific continuing education course or program, or for approval of an individual continuing education activity, is denied by the Board, the applicant shall have the right, upon written request, to have the Board's decision reviewed and reconsidered. As part of said review process, the applicant may appear personally before the Board and shall have the right to present any additional information which may reasonably have a bearing on the issue of whether the application for approval should be approved.

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REGULATORY AUTHORITY:

231 CMR 3.00: M.G.L. c. 13, § 44; c. 112, §§ 60A through 60-O inclusive.

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231 CMR 4.00: Rules of Professional Conduct

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4.01: Rules of Professional Conduct

An architect shall conform to the rules set forth in 231 CMR 4.00 and with the laws governing the practice of architecture. Departure therefrom by act or omission shall be deemed to constitute misconduct warranting disciplinary action by the Board. **Such disciplinary actions shall be reported to NCARB for publication to other jurisdictions.**

(1) Competence.

- (a) In practicing architecture, an architect shall act with reasonable care and competence, and shall apply the technical knowledge and skill which is ordinarily applied by architects of good standing, practicing in the same locality.
- (b) In designing a project, an architect shall take into account all applicable state and municipal building laws and regulations. While an 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 regulations.
- (c) An architect shall undertake to perform professional services only when he or she, together with those whom the architect may engage as consultants, are qualified by education, training, and experience in the specific technical areas involved.
- (d) No person shall be permitted to practice architecture if, in the Board's judgment, such person's professional competence is substantially impaired by physical or mental disabilities.

(2) Conflict of Interest.

- (a) An architect shall not accept compensation for his or her services from more than one party on a project unless the circumstances are fully disclosed to and agreed to (such disclosure and agreement to be in writing) by all interested parties.
- (b) If an architect has any business association or direct or indirect financial interest which is substantial enough to influence his or her judgment in connection with his or her performance of professional services, the architect shall fully disclose in writing to his or her client or employer the nature of the business association or financial interest, and if the client or employer 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.
- (c) An architect shall not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing their products.
- (d) When acting as the interpreter of building contract documents and judge of contract performance, an architect shall render decisions impartially, favoring neither party to the contract.

(3) Full Disclosure.

- (a) An architect, making public statements on architectural questions, shall disclose when he or she is being compensated for making such statement.
- (b) An architect shall accurately represent to a prospective or existing client or employer his or her qualifications and the scope of his or her responsibility in connection with work for which he or she is claiming credit.
- (c) If, in the course of his or her work on a project, an architect becomes aware of a decision taken by his or her employer or client, against the architect's advice, which violates applicable state or municipal building laws or regulations and which will, in the architect's judgment, materially affect adversely the safety to the public of the finished project, the architect shall:
 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,
 2. refuse to consent to the decision, and
 3. in circumstances where the architect reasonably believes that other such decisions will be taken

notwithstanding his or her objection, terminate his or her services with reference to the project.

In the case of a termination in accordance with 231 CMR 4.01(3)(c) the architect shall have no liability to his or her client or employer on account of such termination..

(d) An architect shall not deliberately make a materially false statement or fail deliberately to disclose a material fact requested in connection with his or her application for registration or renewal.

(e) An architect shall not assist the application for registration of a person known by the architect to be unqualified in respect to education, training, experience, or character.

(f) An architect possessing knowledge of a violation of 231 CMR 4.00 by another architect shall report such knowledge to the Board.

(4) Compliance With Laws.

(a) An architect shall not, in the conduct of his or her architectural practice, knowingly violate any state or federal law.

(b) 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.

(c) An architect shall comply with the registration laws and regulations governing his or her professional practice in any United States or Canadian jurisdiction.

(5) Professional Conduct.

(a) A registered architect may sign and seal technical submissions only if:

1. The technical submissions in question were personally prepared by the signing and sealing architect himself or herself; or
2. The technical submissions in question were prepared by another architect who is duly registered in Massachusetts, or by another design professional duly licensed or registered as such in Massachusetts, and the signing and sealing architect has reviewed the work and either coordinated the preparation of that work or integrated that work into his or her own technical submissions; or
3. The technical submissions in question were prepared by another person under the responsible control of the signing and sealing architect.

For purposes of 231 CMR 4.01(5)(a)2. above, the phrase "another design professional" means a person who is duly registered or licensed in the Commonwealth of Massachusetts as a professional engineer, registered land surveyor, registered landscape architect, licensed plumber, or licensed electrician.

(b) A registered architect shall be deemed to have exercised responsible control over the preparation of technical submissions for purposes of 231 CMR 4.01(5)(a)3. if:

1. The technical submissions in question were prepared in the office where the signing and sealing architect is regularly employed; or
2. The technical submissions in question were prepared at a location other than the office where the signing and sealing architect is regularly employed, but the signing and sealing architect maintains adequate and complete written records which demonstrate that he or she possesses detailed knowledge of the content of those technical submissions and exercised sufficient control over those submissions throughout their preparation.

(c) A registered architect may also sign and seal drawings, specifications or other work which is not required by law to be prepared by an architect, if the signing and sealing architect has reviewed such work and has integrated it into his or her own technical submissions.

(d) Reviewing, or reviewing and correcting, technical submissions after they have been prepared by others shall not be sufficient, in and of itself, to constitute the exercise of responsible control over the preparation of those technical submissions.

(e) An architect shall neither offer nor make any gifts, other than gifts of nominal value, with the intent of influencing the judgment of an existing or prospective client in connection with a project in which the architect is interested. For purposes of 231 CMR 4.01(5)(e), reasonable expenditures for entertainment or hospitality shall be considered gifts of nominal value.

(f) An architect shall not engage in conduct involving fraud or wanton disregard of the rights of others.

(g) Suspension, revocation or cancellation of an architect's certification by the National Council of Architectural Registration Boards shall, in and of itself, constitute sufficient grounds for disciplinary action by the Board.

(6) **Advertising.** An architect may advertise so long as the advertisement is not false, deceptive or misleading.

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4.02: Design and Use of Architect's Seal

(1) Each person registered to practice architecture in the Commonwealth shall procure and use a rubber seal the design, arrangement, size and working of which shall conform exactly with the figure below except for insertion of the registrant's own name, his registration number and the name of the city or town from which he is registered, and excepting further that the seal of an out-of-state registrant shall also show the name of his state, province or territory.



(2) The architect's official seal of registration is intended for his personal use in connection with plans, specifications and other instruments of architectural service prepared under his **responsible control** for which he will be responsible, and is not transferable.

(3) An architect shall use the official seal entrusted to him as prima facie evidence that the plans and other instruments of his service upon which it appears were produced by him, or under his **responsible control**. He shall not permit or suffer his official seal to be affixed to any plans, specifications or drawings not prepared by him or under his **responsible control**, except as permitted by 231 CMR 4.01(5).

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4.03: Restricted and Prohibited Uses of Professional Titles

Neither the title "Architect" or any modification of said title shall be affixed or otherwise used in conjunction with any surname, word or business title when such use would imply that an individual, associate, partner or corporate officer is an architect when, in fact, such individual, associate, partner, or corporate officer is not a **registered architect**. An individual shall not be deemed to have violated this section if he or she uses the title "Intern-Architect", as long as he or she is enrolled, active and in good standing in, the NCARB Intern-Architect Development Program (IDP).

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4.04: Practice in Corporations, Partnerships, Limited Liability Companies and Limited Liability Partnerships

(1) Definitions

As used in this section, the following terms shall have the following meanings unless the context otherwise requires:

Corporation - means any business or professional corporation established and organized under M.G.L. c. 156, M.G.L. c. 156A or M.G.L. c. 156B, or any "foreign corporation", as defined in M.G.L. c. 181, s. 1.

Licensee - means a person duly licensed as an architect by the Board to engage in the practice of architecture.

Limited Liability Company or LLC - means any "limited liability company" or "foreign limited liability company", as defined in M.G.L. c. 156C, s. 2., which performs or offers to perform architectural services in Massachusetts.

Limited Liability Partnership or LLP - means any "registered limited liability partnership" or "foreign registered limited liability partnership", as defined in M.G.L. c. 108A, s. 2., which performs or offers to perform architectural services in Massachusetts.

Partnership - means any partnership organized and/or established under the laws of Massachusetts or any other jurisdiction, other than a limited liability partnership as defined in 231 CMR 4.04.

Practice of Architecture - means the "practice of architecture" as defined in M.G.L. c. 112, s. 60A.

(2) **Practice of Architecture by Corporations** - A corporation may enter into agreements to perform, or hold itself out as able to perform, any of the services involved in the practice of architecture only if that corporation meets all of the following conditions:

- (a) At least one officer of the corporation, whose status as an officer is established by the articles of organization or by-laws of that corporation, is duly registered as an architect in Massachusetts;
- (b) All contracts or agreements by that corporation to perform architectural services in Massachusetts are executed on behalf of that corporation by the officer of the corporation who is duly registered as an architect in Massachusetts; and
- (c) All architectural services performed by that corporation are performed either by the officer of the corporation who is duly registered as an architect in Massachusetts, or by other individuals who perform such work under the responsible control of the officer of the corporation who is duly registered as an architect in Massachusetts.

(3) **Practice of Architecture by Partnerships** - A partnership may enter into agreements to perform, or hold itself out as able to perform, any of the services involved in the practice of architecture only if that partnership meets all of the following conditions:

- (a) At least one partner in that partnership is duly registered as an architect in Massachusetts;

(b) All contracts or agreements by that partnership to perform architectural services in Massachusetts are executed on behalf of that partnership by the partner who is duly registered as an architect in Massachusetts; and

(c) All architectural services performed by that partnership are performed either by the partner who is duly registered as an architect in Massachusetts, or by other individuals who perform those services under the responsible control of the partner who is duly registered as an architect in Massachusetts.

(4) Practice of Architecture by Limited Liability Companies - A limited liability company may enter into agreements to perform, or hold itself out as able to perform, any of the services involved in the practice of architecture only if that limited liability company meets all of the following conditions:

(a) At least one manager of the limited liability company (or at least one member in the case of a limited liability company in which management of the business is vested in one or more members) is duly registered as an architect in Massachusetts;

(b) All contracts or agreements by that limited liability company to perform architectural services in Massachusetts are executed on behalf of that limited liability company by a manager or member who is duly registered as an architect in Massachusetts;

(c) All architectural services performed by that limited liability company are performed either by a manager or member who is duly registered as an architect in Massachusetts, or by individuals who perform those services under the responsible control of a member or manager of that limited liability company who is duly registered as an architect in Massachusetts; and

(d) That limited liability company maintains the level of professional liability insurance required by 231 CMR 4.04(7).

(5) Practice by Limited Liability Partnerships - A limited liability partnership, as defined in M.G.L. c. 108A, s. 2, may enter into agreements to perform, or hold itself out as able to perform, any of the services involved in the practice of architecture only if that limited liability partnership meets all of the following conditions:

(a) At least one partner in that limited liability partnership is duly registered as an architect in Massachusetts;

(b) All contracts or agreements by that limited liability partnership to perform architectural services in Massachusetts are executed on behalf of that limited liability partnership by the partner who is duly registered as an architect in Massachusetts;

(c) All architectural services performed by that limited liability partnership are performed either by the partner who is duly registered as an architect in Massachusetts, or by other individuals who perform those services under the responsible control of the partner who is duly registered as an architect in Massachusetts; and

(d) That limited liability partnership maintains the level of professional liability insurance required by 231 CMR 4.04(7).

(6) Practice by Joint Ventures

A joint venture may enter into agreements to perform, or hold itself out as able to perform, any of the services involved in the practice of architecture, as long as at least one member of the joint venture is either an individual who is duly registered as an architect in Massachusetts, or a business organization which meets all of the applicable requirements of 231 CMR 4.04(2), 231 CMR 4.04(3), 231 CMR 4.04(4) or 231 CMR 4.04(5) above.

(7) Required Insurance and Capital Program for LLCs and LLPs

(a) A limited liability company or limited liability partnership which performs or offers to perform architectural services in Massachusetts shall maintain in good standing professional liability insurance which meets the following minimum standards:

1. The insurance shall cover negligent acts, and errors and omissions;
2. The insurance shall insure the limited liability company and its members, as required by M.G.L. c. 156C, s. 65, or the limited liability partnership and its partners as required by M.G.L. c. 108A, s. 45(8)(a);
3. The insurance shall be in an amount of at least \$50,000, plus the product of \$25,000 multiplied by the number of members or partners and the number of other employees of the limited liability company or limited liability partnership who are registered architects, but not in excess of \$500,000 in the aggregate;
4. The requirements of 231 CMR 4.04(7)(a)3. shall be considered satisfied if the limited liability company or limited liability partnership maintains insurance sufficient to provide coverage at a level of at least \$300,000 for each claim with an aggregate top limit of liability for all claims during any one year of at least \$1,000,000;
5. The insurance required by 231 CMR 4.04(7)(a) may provide that it does not apply to:
 - a. Any dishonest, fraudulent, criminal or malicious act or omission of the insured limited liability company or limited liability partnership, or any partner, member or employee thereof; or
 - b. Bodily injury to, or sickness, disease or death of, any person; or
 - c. Injury to or destruction of any tangible property, including the loss of use thereof; or

- d. Such other exclusions as are customarily inserted in professional liability insurance contracts for architects; and
 - 6. Such insurance policies may contain reasonable provisions with respect to policy periods, territory, claims, deductibles, conditions and other usual matters.
- (b) A limited liability company or limited liability partnership which performs or offers to perform architectural services in Massachusetts is not required to maintain the insurance required by 231 CMR 4.04(7)(a) above if:
- 1. That limited liability company or limited liability partnership maintains a designated and segregated capital fund equal to the amount of insurance required by 231 CMR 4.04(7)(a)3 or 231 CMR 4.04(7)(a)4.; and
 - 2. Such funds are specifically designated and segregated for the satisfaction of judgments against the limited liability company or its members, or the limited liability partnership or its partners, based on negligence, wrongful acts, or errors or omissions, by means of:
 - a. Deposit in trust, or in bank escrow, of such funds in the form of cash, bank certificates of deposit, or United States Treasury obligations; or
 - b. A bank letter of credit or insurance company bond.
- (c) Upon any cancellation or other interruption in the insurance coverage required by 231 CMR 4.04(7)(a), or any failure to maintain the designated and segregated capital fund required by 231 CMR 4.04(7)(b), a limited liability company or limited liability partnership shall immediately cease and desist from performing, offering to perform, or holding itself out as able to perform, architectural services in Massachusetts until such time as that limited liability company or limited liability partnership is once again in compliance with 231 CMR 4.04(7). Failure to comply with 231 CMR 4.04(7)(c) shall constitute grounds for disciplinary action by the Board against any and all registered architects who are members, partners, managers or employees of that limited liability company or limited liability partnership.

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4.05 Grounds for Disciplinary Action

The Board may, by majority vote after a hearing conducted in accordance with M.G.L. c. 30A and 801 CMR 1.00 et. seq., take disciplinary action against any architect who holds a certificate of registration issued pursuant to M.G.L. c. 112, §§ 60A – 60O and 231 CMR 3.00. Grounds for such disciplinary action shall include, but shall not be limited to:

- a. Engaging in, authorizing, or aiding or abetting fraud, deceit, misrepresentation of material facts, the provision of false or forged evidence, or bribery in connection with any application for a certificate of registration;
- b. Engaging in cheating on the A.R.E., engaging in any conduct which is prohibited by the rules governing the administration of the A.R.E., or engaging in any conduct which otherwise compromises the integrity or security of all or any portion of the A.R.E.;
- c. Engaging in, authorizing, or aiding or abetting fraud, deceit, misrepresentation of material facts, the provision of false or forged evidence, or bribery in connection with his or her practice of architecture or performance of architectural services;
- d. Violating any provision of any state or federal law or regulation relating to the practice of architecture, including but not limited to any provision of M.G.L. c. 112, s. 60G or any provision of 231 CMR 4.01 through 231 CMR 4.04;
- e. Engaging in gross misconduct in the practice of his or her profession as an architect;
- f. Practicing with gross incompetence or gross negligence on a particular occasion, or engaging in a pattern of repeated negligent practice;
- g. Knowingly permitting, allowing or aiding or abetting the placement of his or her professional seal or signature on any plans, specifications, drawings or other technical submissions which have not been prepared in accordance with the requirements of 231 CMR 4.01(5);
- h. Practicing while his or her ability to practice is impaired by alcohol, drugs, physical disability or mental illness;
- i. Knowingly permitting, or aiding or abetting, an unlicensed person to perform architectural services which require a license for purposes of fraud, deception or personal gain;
- j. Having been convicted of any criminal offense which reasonably calls into question his or her fitness or ability to practice as an architect; or
- k. Engaging in any conduct which results in suspension, revocation or other loss of his or her NCARB registration.

For purposes of 231 CMR 4.05, the term "disciplinary action" shall include, but shall not be limited to: denial, revocation or suspension of a certificate of registration; refusal to renew a certificate of registration; issuance of a letter of censure; issuance of a formal written reprimand; or placement of a registered architect on probation.

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REGULATORY AUTHORITY:

231 CMR 4.00: M.G.L. c. 13, §§ 44A and 44D; c. 112, §§ 60A through 60-O.

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