

MISSISSIPPI
BOARD OF ARCHITECTURE
Rules and Regulations
(revised August 16, 2005)

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CHAPTER I EXAMINATIONS

1.01 Required

Applicants for registration by examination must submit to and pass an Architect Registration Examination as outlined in Rule 2.01. All such applicants must have been approved as a candidate for the examination by the Mississippi State Board of Architecture.

A pre-requisite for making application to take the Architect Registration Examination is completing the Intern Development Program Training Requirement and shall be in accordance with the IDP guidelines developed under the auspices of the National Council of Architectural Registration Boards (NCARB) and the American Institute of Architects and administered by the NCARB.

1.02 Applications

The application packet for the exam shall be considered by the Board if the following items are contained therein:

- (1) The completed Mississippi application form; and
- (2) an NCARB Council Record documenting the following:
 - a. a professional degree in architecture from a school or college of Architecture on the list of accredited schools issued by the National Architectural Accrediting Board (NAAB); and
 - b. completion of the Intern Development Program (IDP) Training Requirements, or satisfactory completion of the Canadian Intern Program; and
- (3) interns shall record IDP training units only when actively enrolled in and participating in the Intern Development Program. Interns will be given four (4) months to establish an NCARB Council Record after commencement of internship work. Reports shall be submitted in the manner and time period recommended by the NCARB; and
- (4) no retroactive documentation of work experience, by resident interns, is permitted unless the applicant has become a resident of the state of Mississippi within two years of making application for examination. In such cases, applicants are permitted a maximum of 235 training units, as prescribed by NCARB, of prior credit to be applied toward the completion of the IDP Training Requirement, except in the case of post third year students enrolled in a Co-op program in an accredited school of architecture, who will be granted credit for work experience upon graduation and/or enrollment in IDP; and
- (5) the board reserves the right at any time to require that an applicant produce substantiation for all or any part of the verified record of experience which he asserts as been attained. The board may, prior to admission to the examination, require substantiation of the quality and character of the training notwithstanding the fact that the applicant has complied with the technical training requirements set forth herein; and
- (6) all assessment reports must be signed by the employer (direct supervisor responsible for the daily activity of the intern) and the State IDP Coordinator, prior to submission to NCARB.

1.03 Format

The Board will select a test vendor who will administer the A.R.E. as prepared by NCARB to all candidates who have been approved by the Board in accordance with the training and education requirements pertaining to registration by examination. This examination will be administered in compliance with those methods and procedures recommended by the National Council of Architectural Registration Boards and adopted by the Mississippi State Board of Architecture.

1.04 Schedules

Examinations will be administered in compliance with NCARB (National Council of Architectural Registration Boards) Guidelines to approved candidates only.

The NCARB Data Center will send candidate's information on the procedure for scheduling a test session, the test content and instructions on taking the computer-based examination after it receives the candidate eligibility notification form from the Mississippi Board.

1.05 Reporting

Approved candidates shall appear personally for exams at the designated date, time and place, as specified by the Test Vendor.

1.06 Grading

The Architect Registration Examination shall be graded in accordance with the methods and procedures recommended by the NCARB. In order for an examination candidate to achieve registration, all sections of the examination must be passed with the minimum score specified by the NCARB.

1.07 Conditions

The Test Vendor will monitor the computer exam in strict compliance with the procedures approved by the NCARB.

1.08 Re-Examination

A candidate is allowed unlimited retakes of the ARE.

1.09 Score Reporting and Reviews

Once the scores are released, this Board will advise each Candidate. A score of PASS must be achieved by exam candidates on all divisions of the A.R.E. in order for that candidate to be considered for initial registration.

1.10 Fees

Each examination candidate shall pay a \$60.00 one-time *application fee* to the State Board. The *examination fees* for each division of the A.R.E. will be paid to the test vendor.

1.11 Disabled Examinees

Requests for modifications to the examination administration to accommodate physical or other disabilities must be made in writing to the State Board. Such a request must be accompanied by a physician's report and/or a report by a diagnostic specialist, along with supporting data, confirming to the Board's satisfaction, the nature and extent of the disability. After receipt of the request from the applicant, the Board may require that the applicant supply further information and/or that the applicant appear personally before the Board. It shall be the responsibility of the applicant to timely supply all further information as the Board may require. The Board shall determine what, if any, modifications will be made.

**CHAPTER II
REGISTRATION REQUIREMENTS**

2.01 Registration by Examination

Once a candidate has successfully passed the Architect Registration Examination he/she becomes eligible for registration as an Architect. Said candidate must fill out an application supplied by the Board and pay the initial registration fee.

Applications for licensure shall expire after a six (6) month interval during which there is no activity.

2.02 Reciprocal Registration

An individual requesting reciprocal registration shall request an application for Mississippi registration from this Board.

Applications will be received at the Board Office at all times. Personal appearances before the Board, if requested, shall be at a time and place designated by the Board. Failure to comply within 90 days from the date of written request for additional evidence or information, or to appear before the Board, when such appearance is requested, may be considered just and sufficient cause for disapproval of the application.

A Council Certificate must document the following requirements for this State, or the Board reserves the right to request additional documented evidence of compliance with these requirements:

- a. An individual must hold a valid Certificate from the National Council of Architectural Registration Boards which documents proof of an NAAB approved degree, or reflects exemption from the degree requirement; (Individuals who do not hold the NAAB 5 yr. Degree, but who were licensed by another jurisdiction, or who were qualified exam candidates in another jurisdiction, prior to January 1, 1987 shall be exempt. A qualified exam candidate is one who (1) met their jurisdiction's requirement to apply to take the ARE, and (2) completed the application process for the ARE, and (3) had been approved by their jurisdiction to take the ARE.)
- b. AND, must have satisfied an Intern Development Program approved by the Board, OR if the applicant can provide sufficient and satisfactory evidence that he is unable to obtain the intern-architect development program certification, the board may accept in lieu thereof certification by the applicant that he has completed not less than thirty-six (36) continuous months of actual engagement in architectural work in the office or offices of a licensed architect or architects. "Actual Employment in Architectural Work" shall mean participation in a diversified training program under the direct supervision of a registered architect;
- c. AND, must have passed the applicable National Council of Architectural Registration Boards Examination;
- d. AND, the applicant must be currently registered and in good standing in his state of residence.

Each non-resident application must submit, as a part of the application, a sworn affidavit stating non-practice and non-solicitation of architectural business in this State until registration or licensing is approved by the Board. Failure to submit this affidavit will be considered just cause for disapproval of the application. Every applicant for reciprocity registration shall comply fully with the requirements of a resident applicant.

The fee for the reciprocal registration is set in Section 2.04.

Applications for licensure shall expire after a six (6) month interval during which there is no activity.

For reciprocal candidates, the phrase "Unable to obtain IDP" means that IDP was not available in the jurisdiction in which the candidate received a NAAB accredited degree and was not a requirement of the jurisdiction in

which the candidate was initially licensed.

The Board shall consider each applicant on a case by case basis and may request such information from the applicant regarding the applicant's failure to meet the IDP requirements, as the Board may in its sole discretion determine necessary. The Board may consider, among other things, the state in which the candidate earned an NAAB accredited degree, the candidate's state of residency and the candidate's initial state of licensure when determining if IDP was available upon initial licensure. Should the candidate have had access to an IDP program in the state where the candidate obtained an NAAB accredited degree, or in the state in which the candidate obtained initial licensure, or in his state of residency at time of initial licensure, then participation in the IDP program will be mandatory prior to licensure for any candidate graduating or entering the exam process on or after July 1, 1996.

2.03 Renewals

Certificates of registration shall be renewed prior to November 30, in odd numbered years. A renewal form will be sent to each Registered Architect who holds a current license in good standing. Those licenses not renewed prior to the November 30 deadline may be late renewed within two years after the license expiration date by paying a \$5.00 per month late penalty fee addition to the normal biennial renewal fee.

Licenses not renewed prior to the end of the two year penalty period shall not be subject to renewal. Any consideration for reinstatement of the expired license after the two year penalty period would be at the discretion of the Board and requires the following:

- a. Submission of a reinstatement application with a reinstatement fee of \$300.00 in addition to the normal biennial renewal fee; and
- b. Submission of an additional Board form on which the applicant shall furnish additional information as the Board may require to properly evaluate the applicant's current qualification for reinstatement, including a complete resume of the applicant's professional activity since the expiration date of the license.
- c. Certification that the applicant has acquired twenty-four (24) units of continuing education credit within a two (2) year period immediately prior to the application for reinstatement. Continuing education hours must be in accordance with the provisions set forth in these rules and regulations and reported in a format acceptable to the board.

However, neither the failure of the Board to send nor the failure of the registrant to receive a renewal form shall excuse failure to renew a license. Unless the license is renewed before November 30, of odd numbered years, continued practice after such date shall constitute unlawful practice and is a ground for discipline.

2.04 Fee Schedule

RESIDENTS	
Application/Registration Fee	\$200.00
Reinstatement	\$500.00
Biennial Renewal Fee	\$200.00
NON-RESIDENTS	
Application/Registration Fee	\$350.00
Reinstatement	\$500.00
Biennial Renewal Fee	\$250.00
OTHER FEES	
Exam Administration	\$60.00
Electronic File of Roster	\$50.00
Printed Copy of Roster	\$25.00
Duplicate Certificate	\$25.00
Non-Sufficient Funds Check.....	\$25.00
Mailing Labels	\$10.00
File Transfer Fee.....	\$25.00
Photo Copies (per single sided page)	\$.25
Laser Printed Pages (per single page)	\$.25

2.05 Emeritus Status

Resident architects who have been registered in this state for ten (10) consecutive years, who are sixty-five (65) years of age or older and who are retired from active practice or other related professional activities, may request "Emeritus Status" by filing an application showing compliance with the requirements of this section. "Retired" means that the architect no longer practices architecture in that he/she no longer stamps and certifies documents with his/her seal or practices architecture as defined in Section 73-1-3(c) of the Mississippi Code of 1972, as amended. If all of the requirements of this section have been met, all fees and penalties, if applicable, for biennial registration shall be waived by the Board.

Any reference to an architect on 'Emeritus Status' on any letter, title, sign, card or device shall list such architect as "Emeritus Architect".

2.06 Intern Architect Status

Individuals who possess a professional degree in Architecture, are actively enrolled in the NCARB Intern Development Program, and are working under the direct supervision of a registered architect may use the term "Intern Architect", but only in conjunction with the (architectural firm's name) architectural firm for which he/she is

employed.

2.07 Practice Prior to Licensure

An individual seeking an architectural commission in Mississippi shall be admitted to Mississippi for the purpose of offering to render architectural services and for that purpose only if:

1. the applicant holds a current and valid registration issued by a registration authority recognized by the board; and
2. the applicant holds an NCARB Certificate; and
3. the applicant notifies the Mississippi board in writing that:
 - (a) individual holds an NCARB Certificate and is not currently registered in the state, but will be present in the state for the purpose of offering to render architectural services,
 - (b) individual will deliver a copy of the notice referred to in (a) to every potential client to whom the applicant offers to render architectural services,
 - (c) individual shall apply for a Mississippi license within 10 working days of notification to the Mississippi board, and
 - (d) the individual consents to the jurisdiction of the board.

The individual shall be prohibited from actually rendering architectural services until he/she has been licensed.

An individual seeking an architectural commission by participating in an architectural design competition for a project in Mississippi shall be admitted to Mississippi for the purpose of offering to render architectural services and for that purpose only if:

1. the individual holds a current and valid registration issued by a registration authority recognized by the board; and
2. the individual hold an NCARB Certificate; and
3. the individual notifies the Mississippi Board in writing that he/she is participating in the competition, holds an NCARB Certificate, and applies for a Mississippi license within 10 working days of entering the competition; and
4. the individual shall not submit the competition entry until he/she has be duly licensed by the Mississippi Board.

CHAPTER III GENERAL RULES

3.01 Records of the Board

All records of the Board which deal with applications, examinations, personal files and NCARB Certificates shall be kept confidential in view of the sensitive nature of the material contained herein.

Public records shall be made available, pursuant to the Mississippi Public Records Act, by written request with the Board responding to requests within fourteen (14) working days. Appropriate administrative costs in relation to the processing of such requests will apply and will be due from the requesting party prior to delivery of any public records.

3.02 Practice Procedures

3.02.1 An architect can practice as a sole proprietor, a partnership, a professional corporation pursuant to *Miss. Code Annot. 79-10-1, et seq. (1995 Supp.)* or professional limited liability company pursuant to *Miss. Code Annot. 79-29-901, et seq. (1994 Supp.)*. With respect to a partnership of architects, or architects and engineers, or a professional corporation or a professional limited liability company, each shareholder or member shall hold a certificate to practice architecture or engineering in that member's state of residence; and in the case of a foreign professional corporation or professional limited liability company doing business in this state, at least one (1) active stockholder or member must hold a certificate to practice architecture in this state. No other persons shall be entitled to be a member or shareholder other than licensed architects or engineers. Further, no architect shall practice architecture with or in a professional corporation that has as an officer or director thereof any individual who is not licensed as an architect or engineer. It is a specific purpose of this rule to restrict or condition the issuance of shares of a professional corporation and the issuance or membership interests in a professional limited liability company which is to advertise or otherwise hold itself out to be an architect or to be authorized to practice architecture to only licensed architects or engineers.

3.02.2 All announcements, stationary, printed matter and listings of a firm shall contain the name of at least one (1) person who is registered as an architect in this state and that no such person be named on any announcement, card, stationary, printed matter or listing of such partnership, professional corporation or association used in this state unless there is designated thereon whether or not such person is licensed in this state. Employees of a firm that are not registered as an architect or engineer are allowed to use business cards for that firm, provided that the job title of the individual is clearly stated."

3.02.3 In the case of where the firm name is considered a "trade name", the name of at least one (1) architect licensed in this state must appear on any announcement, stationary, printed matter or listing .

EXAMPLE: ABC Architects and Engineers, John Doe, Architect

3.02.4 For the purpose of properly identifying drawings, specifications, and contract documents, each architect shall obtain from the Board an individual stamp, of a design approved by the Board to be used as the stamp required by Section 73-1-35 of the registration law. The live signature of the architect and date of execution shall appear over the stamp on all documents prepared by him/her or under his/her supervision for use in the State of Mississippi.

3.02.5 "Prototypical documents" consist of drawings or specifications not intended as final and complete construction documents for a building project, but rather as a sample or model to provide general guidance for a building or buildings to be constructed in more than one location, with substantially few design changes or additions, except those required to adapt to each particular site. Prototypical documents may or may not be premised upon laws, rules and regulations, or adopted building code of a particular state, county, or municipality, but shall be adaptable to the regulations or codes of each applicable construction location. Prototypical documents are generally not designated for a specific climate, weather, topography, soil, or other site-specific conditions or requirements, but are intended to be adapted to those and other site-specific conditions. Prototypical documents may or may not originate from a registered design professional (architect or engineer.)

Nothing in these rules precludes the use of prototypical documents, provided the architect:

- a. obtains written permission from the design professional who prepared or sealed the prototypical documents, or from the legal owner of the prototypical documents, to use, revise, amend and otherwise adapt the prototypical documents; and
- b. thoroughly reviews the prototypical documents, makes necessary revisions, and adds all required elements and design information (including the design services of engineering consultants if warranted), so that the prototypical documents become suitable construction documents, in full compliance with applicable codes, regulations, and site-specific requirements; and
- c. independently performs, and maintains on file, necessary calculations to verify the public health and safety suitability of all elements or features portrayed by the original prototypical documents; and
- d. after reviewing, analyzing, calculating and making revisions and additions, issues the documents with his/her title block and Mississippi seal (or the seals of engineering consultants as applicable), maintaining *responsible control* over the use of the final adapted documents as if they were his/her original design, assuming full responsibility as the *architect of record*.

3.02.6 A duly licensed general contractor, professional engineer or architect, acting individually and in combination thereof, may participate in a "Design/Build" undertaking including the preparation of plans and/or specifications and entering into individual or collective agreements with the owner in order to meet the owner's requirements for predetermined costs and unified control in the design and construction services rendered; provided, however, that nothing herein shall be construed so as to allow the performance of any such services or any division thereof by one who is not duly licensed to perform such service or services in accordance with applicable licensure provisions of the *Mississippi Code*; provided further, that full disclosure is made in writing to the owner as to the duties and responsibilities of each of the participating parties in such agreements; and, provided further, nothing in this rule shall prevent the administration by any of the said licensees of construction contracts and related services or combination of services in connection with the construction of buildings.

3.02.7 A non-resident architectural firm, with no members registered in this state, may form a joint venture or association with a resident architectural firm if:

- a. The non-resident firm complies with Section 73-1-19 of the Mississippi Code; and
- b. the firm agrees to consent to the jurisdiction of the board; and
- c. the construction documents and specifications are prepared under the responsible control of the Mississippi architect; and
- d. one member of the non-resident architectural firm holds a valid NCARB Certificate, and
- e. one member of the non-resident architectural firm shall apply for licensure in Mississippi within ten (10) days of the date of formation of the joint venture or association.

3.02.8 Architect principals, partners or directors in an architectural firm or other entity providing architectural services shall be responsible for the conduct of all non-registered employees (and non-registered associates and contracted persons) under the control of the firm regarding acts, representations and services of the non-registrants, related to the practice of architecture and while acting for, or on behalf of, the firm, if said conduct constitutes a violation of *Miss. Code* SS73-1-1, et seq. or the Architect's Code of Conduct.

Commentary:

It is common practice for architects to provide professional services in the setting of a firm consisting of other architects, other design professionals, and non-registered individuals such as draftspersons, marketers, clerical staff, construction administrators, interns and others. It is recognized that many such non-registered individuals perform many acts and services for the firm that constitute or support the practice of architecture, such as marketing, design, detailing, specification writing, client contact, and contract administration. In the interest of protecting the health, safety and welfare of the public, it is incumbent upon the registered professionals to maintain responsible control of the firm and its staff persons regarding their acts, duties and work product relating to the practice of architecture as defined by this act. The Board has long held that "responsible control" (previously "direct supervision") of the preparation of drawings and specifications was required in order for the architect to place his or her seal. This rule clarifies that "responsible control" of other activities of the practice is required as well, such as firm marketing and representation of qualifications, pre-design activities, etc. The architect is not expected to be responsible for conduct

or acts committed by non-registrants under his employ or control when said conduct is related to activities or services performed outside of the firm (e.g. "moonlighting" by a draftsman.)

3.02.9 Architects are encouraged to seek professional employment on the basis of qualifications and competence for proper accomplishment of the work. This procedure restricts the architect from submitting a price for services until the prospective client has selected, on the basis of qualifications and competence, one architect or firm for negotiations. However, competitive price proposals may be submitted or solicited for professional services if all the following restrictions are met:

- a. The prospective client has first sought statements of qualifications from interested licensees; and
- b. those licensees chosen by the client on the basis of qualifications and competence for proper accomplishment of the work have received in writing a comprehensive and specific Scope of Work; and
- c. the Scope of Work has been prepared, signed and sealed by a licensed architect who has attested to the completeness and adequacy of the Scope of Work, assuring that it fully identifies and describes the factors affecting the required architectural services; and
- d. assurances have been given by the prospective client that factors in addition to price were considered in selecting the architect.

Neither the architect that sealed the Scope of Work nor his firm will be allowed to submit a price proposal.

3.03 Filing of Complaints

Any person may file a complaint against a registered architect, charging a violation of the Architect Registration law. Such complaints shall be filed with the Board and the Board shall proceed in accordance with Section 73-1-29 of the Mississippi Code of 1972 annotated, as amended. Contact the State Board office for a copy of the complaint and disciplinary procedures.

3.04 Seal of Registrant

Upon official notification of registration, the registrant will be advised that it is his/her responsibility to secure an official seal or rubber stamp for use in this state. The seal to be used by the registrants are to be circular in form and 1 ½ inches in diameter. A copy of the design is shown below; and shall contain the following information: Name, Registration Number, City and State of business and the words "Registered Architect State of Mississippi."

Example:



Note: City, State should be that of the licensees residency.

A sample of the seal impression or rubber stamp imprint shall be furnished to the Board within 60 days of the date shown on the Official Notice of registration letter. Failure to provide proof of seal may result in disciplinary action by the Board.

Architects may continue to use seals obtained prior to the adoption of this rule, which are in conformance with prior Board rules. All seals obtained subsequent to the adoption of this rule shall strictly conform to the requirements herein set forth.

It is the responsibility of the registrant to comply with the requirements for use of the seal as set forth in Rule numbers 4.05.2, 4.05.5, 4.05.6, 4.05.8, and 4.05.9.

3.05 Location and Organization of the Board and Any Committees Assigned Thereto

3.05.1 The Board office and the office of any Advisory Committee assigned thereto is located at ~~400 Legacy Park Drive, Suite 2~~, 2 Professional Parkway #2B, Ridgeland, MS 39157. The Board's telephone number is ~~601-899-0074~~ 601-856-4652. The Board's website address is www.archbd.state.ms.us.

3.05.2 The public may obtain a description of the Board's and its committees' organization and their general course and method of operation from the Rules and Regulations of the Board/Committee currently on file with the Secretary of State and by reviewing sections 73-1-1 et seq. and 73-2-1 et seq., of the Mississippi Code which may be accessed on the Board's website as provided in rule 3.05.1.

3.05.3 The Board's/Committee's Rules and Regulations may also be viewed at the Board's website as provided in rule 3.05.1.

3.05.4 The public may request public information available through the Mississippi Open Records Act by contacting the Board at their regular business address as provided in rule 3.05.1.

3.06 Board and Committee Proceedings

3.06.1 All information as to the rules of practice concerning all formal and informal proceedings are available by reviewing the rules and regulations of the Board currently on file with the Secretary of State. Further information may be obtained by viewing the Board website as provided in rule 3.05.1 us or by reviewing sections 73-1-1 et seq. and 73-2-1 et seq. of the Mississippi Code which may be accessed on the Board's website as provided in rule 3.05.1.

3.06.2 The Board and its committees generally meet quarterly at the Board's office, the address of which is provided in rule 3.05.1. The schedule is available on the Board's website as provided in rule 3.05.1. Other meetings which may be called by the Board or its committees will be posted at the Board office.

3.07 Declaratory Opinions

3.07.1 Any person with a substantial interest in the subject matter may petition the Board or any committees assigned thereto for a declaratory opinion by following the specified procedures.

3.07.2 The Board/Committee will issue declaratory opinions regarding the applicability to specified facts of:

- a. a statute administered or enforceable by the Board/Committee; or
- b. a rule promulgated by the Board/Committee; or
- c. an order issued by the Board/Committee.

3.07.3 The Board/Committee will not issue a declaratory opinion regarding a statute, rule or order which is beyond the primary jurisdiction of the Board. "Primary jurisdiction to the Board/Committee" means any one or all of the following:

- a. The Board/Committee has a constitutional grant of authority in the subject matter.
- b. The Board/Committee has a statutory grant of authority in the subject matter.
- c. The Board/Committee has issued specific regulations impacting on the subject matter.
- d. The Board/Committee has issued a specific order or orders impacting on the subject matter.

3.07.4 Declaratory opinions will be issued by the Board/Committee and prepared by the Executive Director.

3.07.5 The Board/Committee may, for good cause, refuse to issue a declaratory opinion. Without limiting the generality of the foregoing, the circumstances in which declaratory opinions will not be issued include, but are not necessarily limited to:

- a. The matter is outside the jurisdiction of the Board/Committee.
- b. There is a lack of clarity concerning the question presented.
- c. There is pending or anticipated litigation, administrative action, or other adjudication.
- d. The statute, rule, or order on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request.
- e. The facts presented in the request are not sufficient to answer the question presented.
- f. The request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules.
- g. The request seeks to resolve issues which have become moot, or are abstract or hypothetical such that the requestor is not substantially affected by the rule, statute or order on which a declaratory opinion is sought.
- h. No controversy exists concerning the issue as the requestor is not faced with existing facts or those certain to arise which raise a question concerning the application of the statute, rule, or order.
- i. The question presented by the request concerns the legal or constitutional validity of a statute, rule or order.
- k. The requestor has not suffered an injury or threatened injury fairly traceable to the application of the statute, rule or order.
- l. No clear answer is determinable.
- m. The question presented by the request involves the application of a criminal statute or sets of facts which may constitute a crime.
- n. The answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure.
- o. The question is currently the subject of an Attorney General's opinion request.
- p. The question has been answered by an Attorney General's opinion.
- q. The request is not made in good faith.
- r. The request is harassing in nature or for any other unlawful purposes.
- s. A similar request is pending before this Board/Committee or any other agency or a proceeding is pending on the same subject matter before any agency, administrative or judicial tribunal, or where such an opinion would constitute the unauthorized practice of law.
- t. The opinion, if issued, may adversely affect the interests of the State, the Board/Committee, or any of their officers or employees in any litigation which is pending or may reasonably be expected to arise.

3.07.6 A declaratory opinion shall not be binding or effective for any third party or person other than the Board/Committee and the person to whom the opinion is issued and shall not be used as precedent for any other transaction or occurrence beyond that set forth by the requesting person.

3.07.7 Where a request for a declaratory opinion involves a question of law, the Board/Committee may refer to the matter to the State Attorney General.

3.07.8 Written requests are required. Each request must be printed or typewritten, or must be in legible handwriting. Each request must be submitted on standard business letter-size paper (8-1/2 inches by 11 inches). Requests may be in the form of a letter addressed to the Board/Committee or in the form of a pleading as might be addressed to a court. Oral and telephone requests are unacceptable.

3.07.9 All requests must be mailed or delivered to the Board/Committee, at its physical address as provided in rule 3.05.1. The request and its envelope shall clearly state that it is a request for a declaratory opinion. Each request must include the full name, telephone number, and mailing address of the requestor. All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request. The signing party shall attest that the request complies with the requirements set forth in these rules, including but not limited to a full, complete, and accurate statement of relevant facts and that there are no related proceedings pending before any agency, administrative or judicial tribunal. A request must be limited to a single transaction or occurrence. Each request shall contain the following:

- a. A clear identification of the statute, rule, or order at issue
- b. A concise statement of the issue or question presented for the declaratory opinion
- c. A full, complete, and accurate statement of all facts relevant to a resolution of the question presented
- d. The identify of all other known persons involved in or impacted by the factual situation causing the request including their relationship to the facts, name, mailing address and telephone number
- e. A statement sufficient to show that the person seeking relief is substantially affected by the rule
- f. The terms of the proposed opinion suggested by the requestor may be submitted with the request or may be requested by the agency.
- g. A request may contain an argument by the requestor in support terms of the proposed opinion suggested by the requestor. The argument may be submitted in the form of a memorandum of authorities, containing a full discussion of the reasons, including any legal authorities, in support of such position of the requestor. The agency may request that argument and memorandum of authorities be submitted by any interested party.

3.07.10 Within forty-five (45) days after the receipt of a request for a declaratory opinion which complies with the requirements of these rules, the Board/Committee shall, in writing:

- a. Issue an opinion declaring the applicability of the specified statute, rule, or order to the specified circumstances; or
- b. decline to issue a declaratory opinion, stating the reasons for its action; or
- c. agree to issue a declaratory opinion or a written statement declining to issue a declaratory opinion by a specified time but no later than ninety (90) days after receipt of the written request.
- d. The forty-five (45) day period shall begin running on the first State of Mississippi business day that the request is received in the Board/Committee.

3.07.11 The procedure which shall be followed after a request for a declaratory opinion is received is as follows:

- a. The Board/Committee may give notice to any person that a declaratory opinion has been requested and may receive and consider data, facts, arguments and opinions from persons other than the requestor.
- b. The requestor, or his attorney, shall append to the request for a declaratory opinion a listing of all persons, with addresses, known to the requestor who may have an interest in the declaratory opinion sought to be issued, and shall mail a copy of the request to all such persons. The requestor or his attorney shall certify that a copy of the request was mailed to all such persons together with this statement: "Should you wish to participate in the proceedings of this request, or receive notice of such proceedings or the declaratory opinion issued as a result of this request, you should contact the Board/Committee within twenty days of the date of this request."

3.07.12 If the Board/Committee in its sole discretion deems a hearing necessary or helpful in determining any issue concerning a request for declaratory opinion, the Board/Committee may schedule such hearing. Notice of the hearing shall be given to all interested parties unless waived. Notice mailed by first class mail seven calendar days prior to the hearing shall be deemed appropriate. The procedure for conducting a hearing, including but not limited to the manner of presentation, the time for presentation, and whether and how evidence may be taken, shall be within the discretion of the Board/Committee. The Board/Committee shall allow the requestor to participate in any hearing. The Board/Committee may allow any other persons or entities to participate in the hearing.

3.07.13 The Board/Committee will make declaratory opinions and requests for declaratory opinions available for public inspection and copying at the expense of the viewer during normal business hours. All declaratory opinions and requests shall be indexed by name and subject. Declaratory opinions and requests which contain information which is exempted from disclosure under the Mississippi Public Records Act or is otherwise confidential by law shall be exempt from this requirement.

3.07.14 Once the Board/Committee has issued its declaratory opinion, the Executive Director will then review the request for validity and prepare a response per the guidelines listed in this Rule. The Executive Director will then forward the request and opinion to Board's legal counsel. After the Board's legal counsel reviews the opinion, he or

she will forward the request and opinion to the Executive Director. The Executive Director will index the opinions by name and subject and make available for public inspection. The Executive Director will mail the opinion back to the requestor and anyone else who has asked to participate.

3.08 Requirements for Public Hearings for Rule Making (for the Board and Any Committees Assigned Thereto)

3.08.1 At the time a Rule is filed with Secretary of State, the Executive Director must also publish where written submissions or written requests for an opportunity to make oral presentations on the proposed rule may be inspected.

3.08.2 A public hearing is required if, during the first 20 business days of the rule notice, written request for a public hearing is received from one of the following:

- a. a political subdivision
- b. an agency
- c. 10 persons

3.08.3 If a public hearing is required, the Executive Director will establish the time, date and location for the public hearing. The Executive Director shall then:

- a. Ensure that the public hearing is not scheduled earlier than 23 business days after filing notice of oral proceeding with SOS.
- b. File notice of the time, date, and location of the public hearing with the Secretary of State.
- c. Within three (3) days of filing notice with SOS, mail or electronically transmit a copy of the notice to those who are on the notification list (their preference).
- d. The Board/Committee can charge for mail, but not electronic transmissions.

3.08.4 Public hearings shall be held at a place and time generally convenient for persons affected by the rule.

3.08.5 Conducting Public Hearings

- a. Public Hearings must be open to the public.
- b. The President/Chairman of the Board/Committee will preside at the proceeding.
- c. The Board/Committee and/or Executive Director will be responsible for answering all questions regarding the rule.
- d. The Board/Committee may issue rules for conduct of oral proceedings.

3.08.5 Public Availability of Public Hearings

- a. A verbatim written transcript of the oral proceedings at each public hearing shall be produced.
- b. This material will be available for public inspection and copying

3.09 Final Orders: Indexing, Public Inspection and Precedent

3.09.1 The Executive Director shall maintain all written final orders that affect the public and will be responsible for making them available for public inspection and copying. The order shall be indexed by name and subject. This is subject to any confidentiality provisions established by law.

3.09.2 The written final order can't be precedent to the detriment of any person by the Board/Committee until it has been made available for public inspection and indexed. This is inapplicable to any person who has actual timely knowledge of the order.

CHAPTER IV PROFESSIONAL CODE OF CONDUCT

(Commentaries provided by the NCARB Professional Conduct Committee)

4.01 Competence

4.01.1 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.

Commentary

Although many of the existing State Board rules conduct fail to mention standards of competence, it is clear that the public expects that incompetence will be disciplined and, where appropriate, will result in revocation of the license. 4.01.1 sets forth the common law standard which has existed in this country for a hundred years or more in judging the performance of architects. While some few courts have stated that an architect, like the manufacturer of goods, impliedly warrants that his/her design is fit for its intended use, this rule specifically rejects the minority standard in favor of the standard applied in the vast majority of jurisdictions that the architect need be careful but not always right. In an age of national television, national universities, a national registration exam, and the like, the reference to the skill and knowledge applied in the same locality may be less significant than it was in the past when there was a wide disparity across the face of the United States in the degree of skill and knowledge which an architect was expected to bring to his work. Nonetheless, the courts have still recognized this portion of the standard, and it is true that what may be expected of an architect in a complex urban setting may vary from what is expected in a more simple, rural situation.

4.01.2 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.

Commentary

It should be noted that the rule is limited to applicable state and municipal building laws and regulations. Every major project being built in the United States is subject to a multitude of laws, addition to the applicable building laws and regulations. As to these other laws, it may be negligent of the architect to have failed to take them into account, but the rule does not make the architect specifically responsible for such other laws. Even the building laws and regulations are of sufficient complexity that the architect may be required to seek the interpretation of other professionals. The rule permits the architect to rely on the advice of other such professionals.

4.01.3 An Architect shall undertake to perform professional services only when he or she, together with those whom the architect may engage as consultant, are qualified by education, training, and experience in the specific technical areas involved.

Commentary

While an architect is licensed to undertake any project which falls within the definition of the practice of architecture, as a professional, the architect must understand and be limited by the limitations on his or her own capacity and knowledge. Where an architect lacks experience, the rule supposes that he or she will retain consultants who can appropriately supplement his or her own capacity. If an architect undertakes to do a project where he or she lacks knowledge and where he or she does not seek supplementing consultants, the architect has violated the rule.

4.01.4 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.

Commentary

Here the State Registration Board is given the opportunity to revoke or suspend a license when the Board has suitable evidence that the license holder's professional competence is impaired by physical or mental disabilities. Thus, the Board need not wait until a building fails in order to revoke the license of an architect whose addiction to alcohol, for example, makes it impossible for him/her to perform his/her professional services with necessary care.

4.02 Conflict of Interest

4.02.1 An architect shall not accept compensation for architectural services from more than one party on a project unless the circumstances are fully disclosed to and agreed to by all interested parties, such disclosure and agreement to be in writing.

Commentary

This rule recognizes that in some circumstances an architect may receive compensation from more than one party involved in a project but that such bifurcated loyalty is unacceptable unless all parties have understood it and accepted it.

4.02.2 An architect shall not knowingly solicit or enter into a contract for professional services for any work which another architect has been exclusively contracted to perform and with which work the other professional is no longer to provide any professional services, without first having been advised in writing by the architect's prospective client that the contract with the other professional has been terminated.

4.02.3 If an architect has any business association or a direct or indirect financial interest which is substantial enough to influence his or her judgment in connection with the architect's performance of professional services, the architect shall fully disclose in writing to the architect's client or employer the nature of the business association for 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.

Commentary

Like 4.02.1, this rule is directed at conflicts or interests. It requires disclosure by the architect of any interest which would affect the architect's performance.

4.02.4 An architect shall not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing their products.

Commentary

This rule appears in most of the existing state standards. It is absolute and does not provide for waiver by agreement.

4.02.5 When acting as the interpreter of building contract documents and/or the judge of contract performance, an architect shall render decisions impartially, favoring neither party to the contract.

Commentary

This rule applies only when the architect is acting as the interpreter of building contract documents and the judge of contract performance. The rule recognizes that this is not an inevitable role and there may be circumstances (for example, where the architect has an interest in the owning entity) in which the architect may appropriately decline to act in those two roles. In general, however, the rule governs the customary construction industry relationship where the architect, though paid by the owner and owing the owner his or her loyalty, is nonetheless required, in fulfilling his or her role in the typical construction industry documents, to act with impartiality.

4.03 Compliance with Laws

4.03.1 An architect shall not, in the conduct of the architect's architectural practice, knowingly violate any state or federal criminal law.

Commentary

This rule is concerned with the violation of a state or federal criminal law while in the conduct of the registrant's professional practice. Thus, it does not cover criminal conduct entirely unrelated to the registrant's architectural practice. It is intended, however, that rule 4.05.4 will cover reprehensible conduct on the part of the architect not embraced by rule 4.03.01. At present, there are several ways in which Member Boards have dealt with this sort of rule. Some have disregarded the requirement that the conduct be related to professional practice and have provided for discipline whenever the architect engages in a crime involving "moral turpitude." The committee declined the use of that phrase as its meaning is by no means clear or uniformly understood. Some Members Boards discipline for felony crimes and not for misdemeanor crimes. While the distinction between the two was once the distinction between serious crimes and technical crimes, that distinction has been blurred in recent years. Accordingly, the Committee specifies crimes in the course of the architect's professional practice, and, under 4.05.4, gives to the Member Board discretion to deal other reprehensible conduct. Note that the rule is concerned only with violations of state or federal criminal law. The committee specifically decided against the inclusion of violations of the law of other nations. Not only is it extremely difficult for a Member Board to obtain suitable evidence of the interpretation of foreign laws, it is not unusual for such laws to be at odds with the laws, or, at least, the policy of the United States of America. For example, the failure to follow the dictates of the "anti-Israel boycott" laws found in most Arab jurisdictions is a crime under the laws of most of those jurisdictions; while the anti-Israel boycott is contrary to the policy of the government of the United States and following its dictates is illegal under the laws of the United States.

4.03.2 The registrant shall not furnish limited services in such a manner as to enable unregistered persons to evade federal, state and local building laws and regulations, including building permit requirements.

4.03.3 A architect shall neither offer nor make any payments or gifts of substantial value 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.

Commentary

4.03.3 Tracks a typical bribe statute. It is covered by the general language of 4.03.1, but it was the Committee's view that 4.03.3 should be explicitly set out in the Rules of Conduct. Note that all of the rules under this section look to the conduct of the architect and not to whether or not the architect has actually been convicted under a criminal law. An architect who bribes a public official is subject to discipline by the state registration board, whether or not the architect has been convicted under the state criminal procedure.

4.03.4 An architect shall comply with the registration laws and regulations governing his or 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.

However, this rule shall not prevent a person who is not currently registered in this state, but who is currently registered in another United States or Canadian jurisdiction, from providing uncompensated (other than reimbursement of expenses) professional services at the scene of an Emergency at the request of a public officer, public safety officer, or municipal or county building inspector, acting in official capacity. "Emergency" shall mean an earthquake, eruption, flood, storm, hurricane, or other catastrophe that has been designated as a major disaster or emergency by the President of the United States or the Governor or other duly authorized official of the State of Mississippi.

Commentary

Here, again, for the reason set out under 4.03.1, the Committee chose to limit this rule to United States jurisdictions.

4.04 Full Disclosure

4.04.1 An architect, making public statements or architectural questions, shall disclose when the architect is being compensated for making such statement.

Commentary

Architect's frequently and appropriately statements on questions affecting the environment and the architect's community. As citizens and as members of a profession acutely concerned with environmental change, they doubtlessly have an obligation to be heard on such questions. Many architects may, however, be representing the interests of potential developers when making statements on such issues. It is consistent with the probity which the public expects from members of the architectural profession that they not be allowed under the circumstances described in the rule to disguise the fact that they are not speaking on the particular issue as an independent professional but as a professional engaged to act behalf of a client.

4.04.2 An architect shall accurately represent to a prospective or existing client or employer the architect's qualification and the scope of the architect's responsibility in connection with work for which the architect is claiming credit.

- a. It shall be the responsibility of each registered architect to clearly and appropriately state prior professional experience of the architect and/or the firm the architect is representing in presenting qualifications to prospective clients, both public and private. If an architect uses visual representations of prior projects or experience, all architects-of-record must be clearly identified. Architect-of-record means persons or entities whose seal appear on plans, specifications and/or contract documents.
- b. An architect who has been an employee of another architectural practice may not claim unconditional credit for projects contracted for in the name of the previous employer. The architect shall indicate, next to the listing for each project, that individual experience gained in connection with the project was acquired as an employee, the time frame in which the project was performed, and identify the previous architectural firm. The architect shall also describe the nature and extent of his/her participation in the project.
- c. An architect who was formerly a principal in a firm may legitimately make additional claims provided he/she discloses the nature of ownership in the previous architectural firm (e.g. stockholder, director or officer) and identifies with specificity his/her responsibilities for that project.
- d. An architect who presents a project that has received awards recognition must comply with the requirements of 4.02.2 with regard to project presentation to the public and prospective clients.
- e. Projects which remain unconstructed and which are listed as credit shall be listed as "unbuilt" or a similar designation.

Commentary

Many important projects require a team of architects to do the work. Regrettably, there has been some conflict in recent years when individual member of that team have claimed greater credit for the project than was appropriate to their actual work performed. It should be noted that a young architect who develops his or her experience working under a more senior architect has every right to claim credit for the work which he or she actually performed. On the other hand, the public must be protected from believing that the younger architect's role greater than was the fact. If a brochure represents an employee's involvement on a specific project, while employed by another firm, the brochure provided shall include the employee's specific responsibilities on the project and the architect of record for the project.

4.04.3 The registrant shall not falsify or permit misrepresentation of his or her associate's academic or professional qualifications. He/she shall not misrepresent or exaggerate his/her degree of responsibility in or for the subject matter or prior assignments. Brochures or other presentations incidental to the solicitation of employment shall not misrepresent pertinent facts concerning employer, employees, associates joint ventures, or his/her or their past accomplishments with the intent and purpose of enhancing his/her qualifications and his/her work.

4.04.4 If, in the course of the architect's work on a project an architect becomes aware of a decision taken by the architect's employer or client, against the architect's advice, which violates applicable state or municipal building laws and regulations and which will, in the architect's judgment, materially and adversely affect the safety to the public of the finished project, the architect shall:

- (i) report the decision to the local building inspector or other public official charged with enforcement of the applicable state or municipal building laws and regulations,
- (ii) refuse to consent to the decision, and
- (iii) in circumstances where the architect reasonably believes that other such decisions will be taken notwithstanding his/her objection, terminate his/her objection, terminate his/her services with reference to the project.

Commentary

This rule holds the architect to the same standard of independence which has been applied to lawyers and accountants. In the circumstances described, the architect is compelled to report the matter to a public official even though to do so may substantially harm the architect's client. Note that the circumstances are a violation of building laws which adversely affect the safety to the public of the finished project. While a proposed technical violation of building laws (e.g., a violation which does not affect safety) will cause a responsible architect to take action to oppose its implementation, the Committee specifically does not make such a proposed violation trigger the provisions the provisions of this rule. The rule specifically intends to exclude safety problems during the course of construction

which are traditionally the obligation of the contractor. There is no intent here to create a liability for the architect in this area. Clause (iii) gives the architect the obligation to terminate his or her services if he or she has clearly lost professional control. The standard is that the architect reasonably believes that other such decisions will be taken notwithstanding his or her objection. The rule goes on to provide that the architect shall not be liable for a termination made pursuant to clause (iii). Such an exemption from contract liability is necessary if the architect is to be free to refuse to participate on a project in which such decisions are being made.

4.04.5 An architect shall not deliberately make a materially false statement or fail deliberately to disclose accurately and completely a material fact requested in connection with the architect's application for registration or renewal or otherwise lawfully requested by the Board.

Commentary

The registration board which grants registration or renews registration on the basis of a misrepresentation by the applicant must have the power to revoke that registration.

4.04.6 False or malicious statements. A licensee shall make no false or malicious statements which may have the effect, directly or indirectly, or by implication, of injuring the personal or professional reputation or business of another member of the profession.

4.04.7 A licensee who has knowledge or reasonable grounds for believing that another member of his profession has violated any statute or rule regulating the practice of his profession shall have the duty of presenting such information to the Board.

4.04.8 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.

4.04.9 An architect possessing knowledge of a violation of these rules by another architect shall report such knowledge to the Board.

Commentary

This rule has its analogue in the Code of Professional Responsibility for lawyers. Its thrust is consistent with the special responsibility which the public expects from architects.

4.05 Professional Conduct

4.05.1 Each office maintained for the preparation of drawings, specifications, reports or other professional work shall have an architect resident and regularly employed in that office having direct knowledge and supervisory control of such work.

Commentary

This rule addresses the subject of main, branch or satellite offices of an architectural firm and protects the public in that such offices are continually supervised by an architect registered in the jurisdiction where the office is located.

4.05.2 An architect shall not sign or seal drawings, specifications, reports or other professional work which was not prepared by or under the responsible control of the architect; except that (i) he or she may sign or seal those portions of the professional work that were prepared by or under the responsible control of persons who are registered under the architectural registration laws of this jurisdiction if the architect has reviewed in whole or in part such portions and has either coordinated their preparation or integrated them into his or her work, and (ii) he or she may sign or seal portions of the professional work that are not required by the architectural registration law to be prepared by or under the responsible control of an architect if the architect has reviewed and adopted in whole or in part such portions and has integrated them into his or her work. "Responsible control" shall be that amount of control over and detailed knowledge of the content of technical submissions during their preparation as is ordinarily exercised by architects applying the required professional standard of care.

Commentary

This provision reflects current practice by which the architect's final construction documents may comprise the work of other professionals as well as work of the architect. The reference to "registered under this or another professional registration law" means of course the laws of the state whose state board has published these rules. The reference is most commonly to persons licensed under the engineering registration law and in some states under the registration law for landscape architects. Although it covers registered architects as well, who may be engaged to do a portion of the work without being subject to the principal architect's supervisory control. If an architect does not except to be responsible for the adequacy of his or her consultant's work, the architect should not sign or seal such work and should otherwise comply with the law of the jurisdiction in order to avoid responsibility.

4.05.3 An architect shall neither make nor offer to make any gifts, other than gift of nominal value (included, 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.

Commentary

4.05.3 is the correlative of 4.04.2, but the latter describes criminal conduct under most state laws for it involves both " private bribes " (which are ordinarily not criminal in nature) and the unseemly conduct of using to obtain work. Note that the rule realistically excludes reasonable entertainment and hospitality and other gifts of nominal value.

4.05.4 An architect shall not engage in conduct involving fraud or wanton disregard for the rights of others.

Commentary

Violations of this rule may involve criminal conduct not covered by 4.03.1, or other reprehensible conduct which the Board believes should warrant discipline. The Committee believes that a state board must, in any disciplinary matter, be able to point to a specific rule which has been violated. An architect who is continuously involved in nighttime burglaries (no connection to his or her daytime [professional practice] is not covered by 4.03.1 (crimes committed "in the conduct of his or her architectural practice"). The Committee believes that serious misconduct, even though not related to professional practice, may well be grounds for discipline. To that end, the Committee recommends Rule 4.05.4. Many persons who have reviewed and commented on the draft rules were troubled by the sententious character of Rule 4.05.4. the Committee has, however, found that lawyers commenting on the rules had little trouble with the standard set in 4.05.4: it applies to conduct which would be characterized as wicked, as opposed to minor breaches of the law. While each board must "flesh out" the rule, the committee assumes that murder, rape, arson, burglary, extortion, grand larceny, and the like, would be conduct subject to the rule, while disorderly conduct, traffic violations, tax violations, and the like, would not be considered subject to the rule.

4.05.5 The registrant shall stamp with his/her seal the following documents:

- a. All original sheets of any bound or unbound set of working drawings or plans, and
- b. The original cover or index page(s) identifying all specification pages covered.

4.05.6 The signature (manual or electronic as defined below) of the registrant and date of signature shall be affixed to all documents listed in paragraph 4.05.5 above.

- a. A manual signature is the handwritten name of the registrant applied to a document that identifies the person, serves as a means of authentication of the contents of the document, provides responsibility for the creation of the document and provides for accountability for the contents of the document.
- b. An electronic signature is a digital authentication process attached to or logically associated with an electronic document and shall carry the same weight, authority, and effects as a manual signature. The electronic signature, which can be generated by using either public key infrastructure or signature dynamics technology, must be as follows:
 - (i) Unique to the person using it,
 - (ii) Capable of verification,
 - (iii) Under the sole control of the person using it,
 - (iv) Linked to a document in such a manner that the electronic signature is invalidated if any data in the document is changed.

4.05.7 Any portions of working drawings or plans prepared by registered consultants shall bear the seal and the signature of the consultant responsible thereof.

4.05.8 No registrant shall affix his/her seal and signature to documents having titles or identities excluding the registrant's name unless:

- a. such documents were indeed developed by the registrant or under the registrant's immediate personal supervision; and
- b. the registrant has exercised full authority to determine their development.

4.05.9 Subject to the requirements of this rule, rubber stamp, embossed, transparent self-adhesive seals, or computer generated types may be used. Such stamps or seals shall not include the registrant's signature.

4.05.10 An architect, acting individually or through a firm, association or corporation shall neither, request, propose, or accept an agreement, contract, or commission for professional services on a "contingency basis" under which his/her professional judgment may be compromised or when a contingency provision is used as a device for promoting or securing an agreement, contract, or commission, either for additional commissions or projects or for performing further services on the project involved. For purposes of adjudging the provisions of this section "contingency basis" will also be interpreted to include the preparation of preliminary reports and/or applications for funds or for reviewing for approval where the fee involved is to be paid only after such submission or approval, or in an amount substantially below the cost of performing the services.

Commentary

This provision reflects directly on the increasing practice of soliciting submittals from architects with

compensation to the architect contingent upon the occurrence of a particular event, i.e.: the passage of a bond issue or funding of the project. The architect is requested to provide services with the possibility of receiving no, or a substantially reduced, fee. If this occurs, selection of the architect is based upon conditions other than qualifications. Additionally, this encourages the architect to perform substandard or inadequate work which may endanger the life, health or safety of the public.

4.05.11 In a Design/Build arrangement:

- a. It shall be deemed unprofessional conduct for an architect, through employment by building contractors, or by another not holding an individual license issued by the Board, to enable the employer to offer or perform architectural services, except as provided in Rule 3.02.6. In design/build arrangements, the architect shall not be an employee of a person not licensed to practice architecture in Mississippi.
- b. It shall be deemed unprofessional conduct for an architect to furnish limited services in such a manner as to enable owners, draftsmen, or others to evade the public health and safety requirements of the Mississippi Code.
- c. When building plans are begun or contracted for by persons not properly licensed and qualified, it shall be deemed unprofessional conduct for an architect to take over, review, revise, or sign or seal such drawings or revisions thereof for such persons, or do any act to enable either such persons or the project owners, directly or indirectly, to evade the requirements of the Mississippi Code and/or the Rules and Regulations of the board.

CHAPTER V

DISCIPLINARY GUIDELINES, RANGE OF PENALTIES, AGGRAVATING AND MITIGATING CIRCUMSTANCES

The Board sets forth below a range of disciplinary guidelines from which disciplinary penalties will be imposed upon practitioners guilty of violating the Law and Rules of the Board. The purpose of the disciplinary guidelines is to give notice to licensees of the range of penalties which will normally be imposed upon violations of particular provisions of the law. The disciplinary guidelines are based upon a single count violation of each provision listed. Multiple counts of violations of the same provision of the law or the rules promulgated thereto, or other unrelated violations contained in the same administrative complaint will be grounds for enhancement of penalties, i.e., suspension, revocation, etc., include lesser penalties, i.e., fine, probation, or reprimand which may be included in the final penalty at the Board's discretion.

The following disciplinary guidelines shall be followed by the Board in imposing disciplinary penalties upon licensees for violation of the above mentioned statutes and rules:

- a. Failure to stamp plans (Rule 4.05.5, 3.02.4
Min -letter of reprimand, and \$250.00 fine.
- b. Failure to sign over stamp (Rule 4.05.6, 3.02.4; 73-1-35
Min. same as (a) above
- c. Providing work not competent to perform (Rule 4.01.1)
Min- Reprimand and a \$1,000
- d. "Plan Stamping" (Rule 4.05.2,4.05.8)
Min. same as (c) above
- e. Attempting to procure a license by providing false, deceptive or misleading information 73-1-13(d) iii;
73-1-29b; Rule 4.04.5
Min-Revocation and \$1,000 fine if licensed (denial of license if application in process)
- f. Licensee disciplined by another jurisdiction (Rule 4.03.4,4.03.1)
Min- Board discretion
Max-Same penalty as imposed in other jurisdiction or as closely as possible to penalty set forth in MS statutes
- g. Criminal conviction relating to architecture 73-1-29(g); 4.03.1
Min-Misdemeanor: reprimand and \$1,000 fine-Felony: One (1) year suspension Two (2) year Probation and \$1,000 fine
- h. Practice on suspended license resulting from disciplinary action by board (73-1-29e)
Min-Revocation and \$1,000 fine
- i. Practice on inactive license (73-1-29e)
Min-Fine based on length of time in practice while inactive; \$100/month or \$5,000 maximum (penalty will require licensee to renew license or cease practice)
- j. Practice on revoked license based on non-payment of renewal fee (73-1-29e)
Min-Fine based on length of time in practice while revoked; \$100/month or \$5,000 maximum
- k. Fraudulent, false, deceptive or misleading advertising 73-1-1; 3.02.2; 3.02.3
Min-Cease and desist letter and public reprimand
- l. Negligence 73-1-29c; Rule 4.01.1
Min-Reprimand, two (2) years probation and \$1,000 fine
Max- Revocation and \$5,000 fine
- m. Fraud or Deceit (73-1-29h)
Min-Reprimand, one (1) year suspension two (2) years probation and \$1,000 fine
Max-\$5,000 fine and revocation and/or refer to Attorney General for criminal prosecution
- n. Incompetence (mental or physical impairment) (Rule 4.01.4)
Min-Suspension-until ability to practice proved, followed by probation

- o. Bribery to obtain clients or commissions (4.03.3; 4.05.3)
Min-Revocation and \$1,000 fine
- p. Undisclosed conflict of interest 73-1-29i; (4.02.1)
Min-Reprimand, \$1,000 fine and two (2) years probation
Max-Revocation and \$5,000 fine
- q. Aiding unlicensed practice (4.04.8; 4.03.2)
Min-Reprimand \$1,000 fine

The Board shall be able to deviate from the above-mentioned guidelines upon showing of aggravating or mitigating circumstances by clear and convincing evidence presented to the Board prior to the imposition of a final penalty. The Board shall also have the right to collect any legal and/or administrative charges incurred by the agency during the course of the investigation. The Board shall also have the right to collect any legal and/or administrative charges incurred by the agency during the course of the investigation. In addition to the above sanctions the Board may also require the individual to take and complete the state law/rules examination as a condition precedent to final resolution of the disciplinary action.

CHAPTER VI MANDATORY CONTINUING EDUCATION GUIDELINES

Purpose

Each registrant shall be required to meet the continuing education requirements of these guidelines. These guidelines provide for a mandatory continuing education program to insure that registered architects remain informed of those technical and professional subjects the Committee deems appropriate to safeguard life, health and promote the public welfare.

Requirements

Each Mississippi registered architect shall complete a minimum of twenty-four (24) Continuing Education Units (CEUs) over a two year period, with documentation being submitted biennially (every odd year). Topics should include the study of relevant technical and professional architectural subjects related to safeguarding life, health, property, and promoting the public welfare. A minimum of sixteen (16) CEUs must be earned in a structured setting. A maximum of eight (8) CEUs may be earned in a self-directed setting.

Policy and Administration

The Continuing Education Committee shall consist of all members of the Mississippi State Board of Architecture. The Committee shall have the following duties:

1. to exercise general supervisory authority over the administration of these rules; and
2. to establish regulations consistent with these rules; and
3. to organize sub-committees and delegate executive authority.

Structured Continuing Education

(minimum 16 CEUs required)

Registrants shall complete a minimum of 16 CEUs in structured course study. Structured course study shall consist of participation in education activities presented by individuals or groups qualified by professional, practical, or academic experience to conduct courses of study. The Board may require a detailed synopsis or report of CEUs claimed. Structured Continuing Education shall include the following:

1. Attending professional or technical presentations at meetings, conventions, or conferences.
2. Attending in-house programs sponsored by corporations or other organizations.
3. Successfully completing seminars, tutorials, short courses, on-line courses, correspondence courses, televised courses, or videotaped courses.
4. Successfully completing college or university sponsored courses.
5. Successfully completing courses that are awarded continuing education credits.

Self-Directed Continuing Education

(maximum 8 CEUs allowed)

Registrants shall complete a maximum of 8 CEUs in self directed course study. Self directed course study encourages flexibility of study by registrants and includes, but is not limited to, education activities such as self study courses sponsored by professional associations, architecturally significant educational courses, organized individual or group study of professional specialization topics, or reading specific professional oriented books and articles. The Board may require a detailed synopsis or report of CEUs claimed. Self-Directed Education shall include the following:

1. Reading books or magazine articles.
2. Visiting architecturally significant sites.
3. Viewing video presentations.
4. Making professional or technical presentations at meetings, conventions, or conferences.
5. Teaching or instructing a qualified presentation (initial presentation only). Teaching credit shall not apply to full-time faculty at a college, university, or other educational institution.
6. Authoring published papers, articles, or books.

7. Actively participating in a technical professional society or organization as an officer or committee member.
8. Participating in activities that contribute to the welfare of the community and are directly related to the practice of architecture (such as Habitat for Humanity, etc.)

Computation of Credit

1. Successfully completing one (1) hour professional development education (50 minutes actual course or contact time) shall be the equivalent of one (1) CEU. No credit will be allowed for introductory remarks, meals, breaks, or business/administration matters related to courses of study.
2. The Board has final authority with respect to approval of courses, credits, and continuing education hours for courses and any other method of earning credit.
3. Hours claimed for continuing education credit must be in addition to or outside of the registrant's normal day-to-day business activities.

Scope and Exemptions

1. Scope:
These guidelines shall apply to all architects registered by the Mississippi State Board of Architecture as a condition for license renewal.
2. Exemptions:
 - a. A first-time new registrant by exam or reciprocity will be exempt for the first renewal period. NOTE: This exemption does not apply on applications for reinstatement of registration.
 - b. Registrant is an emeritus status architect on record with this Board.
 - c. Registrant is a civilian who serves on active duty in the Armed Forces of the United States for a period of time exceeding ninety (90) consecutive days during the two year reporting period. (This does not include a career military person who is reassigned overseas, etc.)
 - d. Resident registrants of any other NCARB jurisdiction with either a mandatory or voluntary continuing education program provided that same jurisdiction accepts the Mississippi continuing education requirement as satisfying their continuing education requirement, and the registrant certifies by affidavit and annual report that all requirements of that jurisdiction for current continuing education compliance and registration have been met. For continuing education purposes, the address of record on file with the Board will determine "residence". Registrant must attach to the annual report form a copy of the most recently-issued wallet card, letter of good standing, or certificate.
 - e. Personal hardship will be considered on an individual basis. Requests must be received at the Board office no later than December (of each odd year).

Reporting

1. The Continuing Education Biennial Report Form must be completed in full in order to process the registration renewal. The Report can be found on the Board's website, or may be obtained by calling the Board office. The registrant must supply enough details on the form to permit verification, must sign and certify the Certification Statement on the Continuing Education Annual Report Form, and submit it with the appropriate fee for renewal. **SIMPLY ATTACHING TRANSCRIPTS OR DOCUMENTATION IS NOT ACCEPTABLE. DO NOT SEND DOCUMENTATION.** A random sample of all annual reports will be conducted to ensure accuracy and compliance.
2. Each registrant, at renewal of registration time, shall submit the Continuing Education Biennial Report Form, which shall include an affidavit attesting to the registrant's fulfillment of continuing education requirements during the preceding period of two fiscal years ending November 30 of odd years. No carry over of continuing education hours is permitted.
3. Each affidavit shall be reviewed by the Committee and may be subject to audit for verification of compliance with requirements. Registrants shall retain proof of fulfillment of requirements for a period of one year after submission in the event that the affidavit and annual report is selected for audit. The Board may require a detailed synopsis or report for verification of CEUs claimed.
4. The Committee may, upon audit for verification of compliance, disallow claimed credit for continuing education units. The registrant shall have sixty (60) calendar days after notification of disallowance of credit to substantiate the original claim or earn other CEU credit which fulfills minimum requirements.

Recordkeeping

1. The registrant is responsible for retaining proof of participation in continuing education activities. Supporting documents may include but are not limited to: (1) a log showing activity claimed, sponsoring organization, location, duration, etc.; (2) attendance certificates; (3) signed attendance receipts; (4) paid receipts; (5) sponsor's list of attendees (signed by a person in responsible charge of the activity).
2. Registrants who claim CEUs for videotaped instructional materials and self-study courses must retain information which (1) accounts for the amount of time spent completing the activity; (2) summarizes the content of the activity; and (3) relates the activity to the health, safety, and welfare of the public.
3. These records must be retained for a period of one year from the date of report. Copies must be furnished to the Board for audit purposes if requested.

Disallowances

If continuing education credits are disallowed, the registrant shall have sixty (60) calendar days after notification to substantiate the original claim or earn other continuing education credits to meet the minimum requirements.

Noncompliance and Sanctions

Failure to fulfill the continuing education requirements and to file a properly completed and signed annual report shall result in non-renewal of the architect's certificate of registration.